

12:20:04

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,	)	CV-14-5344-BLF
	)	
PLAINTIFF,	)	SAN JOSE, CALIFORNIA
	)	
VS.	)	DECEMBER 1, 2016
	)	
ARISTA NETWORKS, INC.,	)	VOLUME 6
	)	(REDACTED)
DEFENDANT	)	PAGES 1115-1309
_____	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE BETH LABSON FREEMAN  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: QUINN, EMANUEL, URQUHART & SULLIVAN  
BY: DAVID A. NELSON  
500 WEST MADISON STREET, SUITE 2450  
CHICAGO, IL 60661

FOR THE PLAINTIFF:  
BY: SEAN PAK  
50 CALIFORNIA STREET, 22ND FLOOR  
SAN FRANCISCO, CALIFORNIA 94111

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES (CONTINUED)

FOR THE DEFENDANT: KEKER & VAN NEST, LLP  
BY: ROBERT ADDY VAN NEST  
BRIAN FERRALL  
DAVID J. SILBERT  
ELIZABETH K. MCCLOSKEY  
EDUARDO E. SANTACANA  
RYAN WONG  
DAVID J. ROSEN  
KEKER & VAN NEST LLP  
633 BATTERY STREET  
SAN FRANCISCO, CA 94111-1809

INDEX OF WITNESSES

PLAINTIFF'S

**DAN LANG**

DIRECT EXAM BY MR. JAFFE	P. 1162
CROSS-EXAM BY MR. SILBERT	P. 1176
REDIRECT EXAM BY MR. JAFFE	P. 1199

**KEVIN ALMEROOTH**

DIRECT EXAM BY MR. NELSON	P. 1202
CROSS-EXAM BY MR. VAN NEST	P. 1283

INDEX OF EXHIBITSMARKEDADMITTEDPLAINTIFF'S

4791	1165
4803	1169
4424	1171
4672	1173
4673, 4674	1174
698	1176
700	1179
4821	1202
295	1243
488	1249
545	1259
1-15	1266
4800	1271
4794	1273
4795	1276

DEFENDANT'S

5345	1178
7558	1186
5195	1193
5040	1294

SAN JOSE, CALIFORNIA

DECEMBER 1, 2016

P R O C E E D I N G S

(COUNSEL IN AT 12:30P.M.)

THE COURT: GOOD AFTERNOON, EVERYONE. PLEASE BE SEATED.

ALL RIGHT. WE ARE BACK ON THE RECORD IN CISCO VERSUS ARISTA, AND ALL COUNSEL ARE PRESENT. WE ARE OUTSIDE THE PRESENCE OF THE JURY.

WE WILL TRY TO MAKE GOOD USE OF OUR TIME THIS AFTERNOON. AND I'LL, AGAIN, ASK YOU TO HELP ME MAKE SURE THAT I KNOW WHAT WE'RE FIGHTING ABOUT TODAY, ALTHOUGH BECAUSE I HAVE DIFFICULTY ACCESSING DOCUMENTS ON MY IPAD.

I HAVE REVIEWED THE DEPOSITION OBJECTIONS. YOU CAN LET ME KNOW WHETHER WE NEED TO SPEND TIME WITH MY RULINGS ON THEM NOW OR IF THEY ARE NOT REALLY AT ISSUE.

MR. VAN NEST: WHICH WITNESS, YOUR HONOR?

THE COURT: SHAFER AND SWEENEY.

MR. PAK: SHAFER IS NO LONGER AT ISSUE, YOUR HONOR, WE HAVE AN AGREEMENT TO BRING HIM LIVE TUESDAY.

MR. VAN NEST: WE REACHED A NUMBER OF AGREEMENTS LAST NIGHT THAT ARE GOING TO CUT OUR WORK DOWN.

ONE IS WITH RESPECT TO MR. SHAFER -- YOU DON'T NEED TO HAND BACK THE DEPOSITION. WE'VE AGREED THAT HE CAN APPEAR NEXT WEEK. THEY CAN KEEP THEIR CASE IN CHIEF OPEN, AND I THINK HE'S SCHEDULED TO APPEAR TUESDAY LIVE.

12:32:20 1 THE COURT: OKAY.

12:32:20 2 MR. VAN NEST: AND IN EXCHANGE FOR THAT, THEY'VE  
12:32:22 3 AGREED THAT WE CAN PLAY MR. GOURLAY'S DEPOSITION VIDEO WITH  
12:32:29 4 DESIGNATIONS THAT THEY'VE ALREADY APPROVED, AT ANY POINT DURING  
12:32:33 5 OUR CASE.

12:32:34 6 AND WE'VE SAID THAT THEY CAN PROVIDE COUNTERS TO THOSE,  
12:32:37 7 NOT BROAD COUNTERS LIKE A DIRECT EXAM, BUT COUNTERS TO WHAT WE  
12:32:42 8 PRESENT.

12:32:42 9 THE COURT: OKAY. ALL RIGHT.

12:32:43 10 MR. VAN NEST: AND SO WE HAVE A DEAL ON THAT.

12:32:46 11 WE ALSO HAVE VERY GREATLY NARROWED THE DEBATE ON ALMEROTH.  
12:32:52 12 WE'VE RESOLVED THE DEMONSTRATIVES. WE'VE REACHED AGREEMENT ON  
12:32:59 13 WHAT TO DO WITH THE ANSWER.

12:33:03 14 THEY WANT TO PLAY -- THEY WANT TO READ A STIPULATION AND  
12:33:07 15 WE'VE AGREED TO THAT, THAT SAYS WE ADMITTED USING THE COMMANDS  
12:33:13 16 IN EXHIBIT 1, AND THEN SUBSEQUENTLY WE DENIED USING THE  
12:33:17 17 COMMANDS IN EXHIBIT 1, AND THAT'S GOING TO BE A STIPULATION  
12:33:20 18 THAT THEY CAN READ.

12:33:22 19 AND EXHIBIT 1 WILL GO TO THE JURY AS AN EXHIBIT. AND IT'S  
12:33:25 20 JUST A LIST OF THE COMMANDS THAT WAS ATTACHED TO THEIR  
12:33:27 21 COMPLAINT, THAT'S WHAT IT IS.

12:33:29 22 THE COURT: OKAY.

12:33:31 23 MR. VAN NEST: NOW WE DO HAVE A COUPLE OF DEBATES  
12:33:33 24 WHICH MR. WONG IS GOING TO ADDRESS ON ALMEROTH'S SUMMARIES --

12:33:37 25 THE COURT: SO EXHIBIT 1, NOW I DON'T KNOW WHAT THAT

12:33:39 1 IS.

12:33:39 2 MR. NELSON: WE CAN SHOW YOU, YOUR HONOR.

12:33:40 3 EXHIBIT 1 IS A LIST OF ALL THE COMMANDS, THERE WERE 508 AT  
12:33:43 4 THE BEGINNING.

12:33:44 5 THE COURT: YES.

12:33:44 6 MR. NELSON: THERE ARE TWO THAT ARE DROPPED, AND JUST  
12:33:46 7 FOR CLARITY PURPOSES WE ARE ACTUALLY IN THE STIPULATION, READ  
12:33:49 8 TO THE JURY WHICH TWO WERE DROPPED, JUST SO THERE ISN'T ANY  
12:33:53 9 CONFUSION REGARDS THE DIFFERENCE IN THE NUMBERS.

12:33:55 10 THE COURT: SO THIS IS MY FAMILIAR LIST?

12:33:57 11 MR. NELSON: CORRECT.

12:33:57 12 MR. VAN NEST: RIGHT.

12:33:58 13 THE COURT: OKAY. AND SO THERE IS A STIPULATION TO  
12:34:00 14 COPYING, AND THEN --

12:34:03 15 MR. VAN NEST: NO, NO, IT'S NOT A STIPULATION TO  
12:34:06 16 COPYING.

12:34:06 17 THE COURT: THEN I MISUNDERSTOOD.

12:34:08 18 MR. VAN NEST: HERE'S WHAT IT IS.

12:34:09 19 WE HAD -- OUR PLEADING -- OUR ANSWER INITIALLY ADMITTED  
12:34:12 20 USING THE COMMANDS, WHICH THERE'S AN ARGUMENT ABOUT WHETHER  
12:34:19 21 THAT'S ADMISSIBLE IN EVIDENCE, BUT WE'VE RESOLVED IT BY THE  
12:34:22 22 STIPULATION.

12:34:22 23 AND OF COURSE, WE AMENDED THE ANSWER TO DENY THAT WE USED  
12:34:26 24 THE COMMANDS IN THE LIST, AND THAT'S ALL PART OF THE STIP TOO.  
12:34:30 25 THIS IS ONLY RESOLVING AN EVIDENCE POINT OF WHETHER THEY COULD

12:34:33 1 PUT THE ANSWER IN. THEY ARE NOT GOING TO PUT ANSWER IN, JUST  
12:34:38 2 READ THE STIP AND EXHIBIT 1 WILL GO IN.

12:34:41 3 THE COURT: OKAY. GREAT.

12:34:42 4 MR. VAN NEST: THE OTHER THING THAT WE'VE DONE WITH  
12:34:45 5 ALMEROTH, AND WE'VE ELIMINATED MOST OF THE DISPUTES ABOUT  
12:34:48 6 SUMMARY EXHIBITS BY AGREEING TO SEVERAL OF THEM, BUT THERE IS  
12:34:52 7 ONE THAT WE WANT TO ARGUE.

12:34:54 8 THE COURT: OKAY.

12:34:54 9 MR. VAN NEST: AND MR. WONG WILL DO THAT.

12:34:57 10 I BELIEVE WE HAVE A COUPLE OF OTHER ISSUES, ALSO FOR  
12:35:01 11 YOUR HONOR RIGHT NOW, THAT HAD TO DO WITH THEIR FAMOUS ROG  
12:35:09 12 ANSWER EXHIBIT THAT WE STARTED TALKING ABOUT MONDAY.

12:35:11 13 WE DON'T HAVE AGREEMENT ON THAT. THAT'S THEIR AUTHORSHIP  
12:35:16 14 ANSWER. AND WE ALSO HAVE A COUPLE OF THINGS THAT TO DR. JAFFE,  
12:35:19 15 WHO IS GOING TO TESTIFY TOMORROW.

12:35:22 16 SO THAT'S WHAT WE HAVE FOR YOU.

12:35:25 17 THE COURT: OKAY. AND AGAIN, I READ THESE EXHIBITS  
12:35:33 18 WHEN THEY COME, AND THEN I HAVE A HARD TIME FINDING THEM  
12:35:36 19 BECAUSE I PROBABLY GET 30 E-MAILS TOTAL AND I CAN'T FIND THEM.  
12:35:40 20 AND I KNOW I DON'T HAVE TO STUDY THE EXHIBITS, I NEED A FRONT  
12:35:42 21 PAGE OF IT AND I'M GOING TO TRY MY BEST TO LOCATE IT, BUT I  
12:35:46 22 DON'T KNOW --

12:35:47 23 MR. VAN NEST: WHERE DO YOU WANT TO START,  
12:35:49 24 YOUR HONOR? DO YOU WANT TO START ON --

12:35:50 25 THE COURT: SO I THOUGHT WE WOULD -- LET'S START ON



12:35:53 1 THE FILING THAT YOU MADE FOR TODAY, AND I'M GOING TO QUICKLY GO  
12:35:56 2 THROUGH IT AND EITHER INDICATE IT'S BEEN RESOLVED OR DEAL WITH  
12:35:59 3 IT.

12:35:59 4 AND SO THAT IS DEFENDANT ARISTA'S OBJECTIONS FOR 12-1-16.  
12:36:06 5 THE FIRST OBJECTION WAS AS TO TRIAL EXHIBIT 593, I BELIEVE  
12:36:11 6 THAT'S BEEN RESOLVED?

12:36:12 7 MR. NELSON: CORRECT, YOUR HONOR. I HAD SENT THAT  
12:36:14 8 E-MAIL THIS MORNING.

12:36:15 9 THE COURT: YES.

12:36:17 10 MR. WONG: SO 593 HAS BEEN WITHDRAWN, BUT THERE IS  
12:36:21 11 THE OBJECTIONS TO THE SUBSTANCE OF THE HELP DESCRIPTIONS THAT  
12:36:25 12 ARE ALSO TRIAL EXHIBITS 4799 IS AT ISSUE. WE OBJECTED TO THAT  
12:36:35 13 THE DAY BEFORE.

12:36:38 14 THE COURT: I'M SORRY, I'VE READ SO MANY EXHIBITS --

12:36:42 15 MR. NELSON: WE CAN GIVE YOU A COPY OF THE EXHIBITS.

12:36:44 16 THE COURT: CAN I JUST HAVE THE FRONT PAGE OF IT  
12:36:46 17 EVEN, BECAUSE -- THIS IS 4799?

12:37:03 18 MR. NELSON: CORRECT, YOUR HONOR.

12:37:07 19 THE COURT: SO THIS HAS NOTHING TO DO WITH WHAT'S  
12:37:10 20 ON -- I'M A VERY LINEAR THINKER. THIS IS AN OUTSTANDING  
12:37:15 21 MOTION, I HAVE TO RULE ON IT. YOU ARE NOW INTRODUCING A  
12:37:18 22 DIFFERENT DOCUMENT THAT'S NOT HERE.

12:37:20 23 MR. WONG: OKAY. SO YES, THAT DOCUMENT, THE FILING  
12:37:23 24 LAST NIGHT ADDRESSED 593, THAT'S BEEN WITHDRAWN, BUT WE HAD  
12:37:29 25 RAISED OBJECTIONS TO EXHIBIT 4799 ON THE PRIOR DAYS.

12:37:36 1 MR. NELSON: SO WOULD IT BE EASIER TO GO THROUGH THE  
12:37:39 2 ONE YOU HAVE IN FRONT OF YOU, YOUR HONOR, THEN GO BACK TO THE  
12:37:42 3 OTHER ISSUE?

12:37:42 4 THE COURT: NO, WE CAN DEAL WITH THIS.

12:37:50 5 MR. WONG: THIS ONE IS VERY STRAIGHTFORWARD,  
12:37:51 6 YOUR HONOR, AND I CAN PROBABLY GO --

12:37:59 7 THE COURT: I THINK THIS HAS BEEN OUTSTANDING FOR A  
12:38:05 8 WHILE. AND WHAT IS THE DISPUTE THAT ARISTA HAS WITH THIS  
12:38:15 9 DOCUMENT AT THIS TIME?

12:38:16 10 MR. WONG: SO YOUR HONOR, FOR THE OTHER SUMMARY  
12:38:19 11 EXHIBITS THAT WE'VE AGREED TO, THEY ACTUALLY IDENTIFY THE  
12:38:22 12 PARTICULAR REGISTERED WORKS --

12:38:23 13 THE COURT: OH.

12:38:25 14 MR. WONG: -- IN WHICH THE MATERIAL APPEARS AND IS  
12:38:29 15 SUPPOSEDLY A SUMMARY OF.

12:38:31 16 THE PROBLEM WITH THIS, YOUR HONOR, AND IT'S ACTUALLY A  
12:38:33 17 PROBLEM WITH THEIR CONTENTIONS, IS THAT YOU DON'T SEE ANY  
12:38:36 18 VERSION OF IOS LISTED ON THIS, ANY REGISTERED VERSION OR ANY  
12:38:40 19 VERSION THAT'S ASSERTED IN THIS CASE.

12:38:41 20 AND THEY HAVE A SEPARATE TABLE FURTHER DOWN IN THIS ONE  
12:38:44 21 FOR HELP DESCRIPTIONS FROM IOS XR, AND THAT ONE ALSO DOES NOT  
12:38:48 22 IDENTIFY A VERSION THAT THESE HELP DESCRIPTIONS SUPPOSEDLY  
12:38:52 23 APPEAR IN, IN TERMS OF CISCO'S REGISTERED WORKS.

12:38:55 24 AND SO THE PROBLEM WITH THAT IS THAT THEY ACTUALLY NEVER  
12:38:58 25 IDENTIFIED FOR IOS, ANY REGISTERED VERSION IN WHICH THESE

12:39:03 1 APPEAR. AND ACTUALLY FOR IOS XR, THE ONLY VERSION OF IOS XR  
12:39:08 2 THAT THEY SAID THAT THESE ARE IN IS IOS XR 514.

12:39:13 3 THE COURT: SO IS IT YOUR CONTENTION THAT THE HELP  
12:39:15 4 DESCRIPTIONS ARE NOT REGISTERED?

12:39:17 5 MR. WONG: WE ACTUALLY DON'T KNOW BECAUSE THEY'VE  
12:39:19 6 NEVER IDENTIFIED A PARTICULAR VERSION IN WHICH THESE ARE FOUND.

12:39:23 7 THE COURT: OKAY. WELL, I CERTAINLY NEED EVIDENCE OF  
12:39:25 8 A REGISTERED WORK. I'M SURE -- IT SEEMS LIKE A BIG CONTENTION  
12:39:29 9 THERE.

12:39:30 10 MR. PAK: YOUR HONOR, WE'VE OBVIOUSLY, WHEN WE DID  
12:39:33 11 THE REGISTRATIONS, WE IDENTIFIED ALL THE SOURCE CODE FILES.

12:39:38 12 HELP DESCRIPTIONS ARE A LITTLE BIT DIFFERENT IN THE SENSE  
12:39:40 13 THAT MOST OF THE COMMANDS ARE DESCRIBED IN ALL THE MANUALS, BUT  
12:39:44 14 THE HELP DESCRIPTIONS ARE PART OF THE SOURCE CODE. SO WHEN YOU  
12:39:47 15 RUN THE SOURCE CODE, IT GENERATES THE HELP DESCRIPTIONS.

12:39:53 16 SO WE HAVE DONE SOURCE CODE ANALYSIS COMPARING SPECIFIC  
12:39:56 17 VERSIONS OF IOS, IOS XR, SOURCE CODE, THAT TIES IN THESE  
12:40:01 18 PARTICULAR HELP DESCRIPTIONS. WE'VE ALSO DONE SOURCE CODE  
12:40:03 19 ANALYSIS OF EOS SOURCE CODE TO IDENTIFY THESE HELP  
12:40:08 20 DESCRIPTIONS.

12:40:08 21 SO THESE ARE VERY MUCH -- AND I THINK THAT BOTH PARTIES  
12:40:12 22 HAVE UNDERSTOOD ALL ALONG THAT THESE ARE PART OF IOS AND IOS  
12:40:15 23 XR.

12:40:16 24 WE ARE NOT -- AT THE LEVEL ANALYSIS, WE ARE NOT TRYING TO  
12:40:19 25 TIE SPECIFIC COMMANDS TO SPECIFIC VERSIONS BECAUSE WE HAVE FOUR

12:40:25 1 DISTINCT CATEGORIES OF USER INTERFACES WE ARE TALKING ABOUT  
12:40:28 2 THAT CORRESPOND TO THE OPERATING SYSTEMS, IOS, IOS XR, IOS XE  
12:40:32 3 AND NX-OS.

12:40:33 4 THE COURT: WELL, DON'T YOU HAVE TO TIE IT TO  
12:40:37 5 PARTICULAR WORK TO PROVE YOUR CASE?

12:40:39 6 MR. PAK: YES, WE DO. AND WE THINK WE'VE DONE THAT  
12:40:41 7 BY TYING IT TO IOS AND IOS XR FOR THIS PARTICULAR HELP  
12:40:46 8 DESCRIPTION ANALYSIS, YOUR HONOR.

12:40:46 9 THE COURT: SO YOU'RE SAYING THAT THESE HELP  
12:40:54 10 DESCRIPTIONS IN YOUR LEFT-HAND COLUMN APPEAR IN YOUR REGISTERED  
12:40:57 11 IOS?

12:40:58 12 MR. PAK: YES.

12:40:58 13 THE COURT: AS DEMONSTRATED BY THE SOURCE CODE.

12:41:02 14 MR. PAK: CORRECT.

12:41:03 15 THE COURT: THAT'S YOUR ARGUMENT.

12:41:03 16 MR. PAK: THAT'S RIGHT.

12:41:05 17 THE COURT: AND THEN THE QUESTION IS, DID YOU PROVIDE  
12:41:07 18 THOSE IDENTIFICATIONS LINE-BY-LINE TO ARISTA?

12:41:10 19 MR. WONG: I CAN HAND UP THE ROG RESPONSES.

12:41:12 20 MR. PAK: YEAH, THAT'S TAKE A LOOK AT WHAT WE  
12:41:15 21 IDENTIFIED.

12:41:15 22 THE COURT: SO THE FACT THAT IT IS MAPPED THROUGH THE  
12:41:22 23 SOURCE CODE IS FINE. IF THAT'S WHAT IT IS, THAT'S WHAT IT IS.

12:41:25 24 MR. PAK: THAT'S RIGHT, YOUR HONOR.

12:41:32 25 MR. WONG: SO THIS IS THE ROG RESPONSE THAT THEY

12:41:33 1 SERVED FOR IOS. AS YOU CAN SEE, YOUR HONOR, IT'S THE SAME  
12:41:37 2 NONIDENTIFIED VERSION OF IOS, SO WE DON'T EVEN KNOW IF THIS IS  
12:41:40 3 TALKING ABOUT REGISTERED WORK.

12:41:41 4 THE COURT: SO THIS MAPS IT TO ARISTA, BUT NOT TO  
12:41:44 5 CISCO.

12:41:44 6 MR. WONG: THAT'S THE PROBLEM, YOUR HONOR.

12:41:45 7 THE COURT: OKAY. AND THIS ONE YOU OBJECTED TO  
12:41:47 8 BECAUSE YOU SAY -- YOU ARGUED, AND WE WILL GET TO THAT IN A  
12:41:51 9 MINUTE, THAT THERE'S NO SOURCE CODE COPYING CLAIM. THAT'S A  
12:41:54 10 DIFFERENT ISSUE.

12:41:57 11 MR. WONG: SO THAT HAS ACTUALLY BEEN RESOLVED, SO  
12:42:01 12 THEY ARE NOT GOING TO PUT SOURCE CODE OF ANY SIDE.

12:42:04 13 THE COURT: GREAT. THAT'S GOOD. IT SEEMS  
12:42:05 14 STRAIGHTFORWARD. GOOD. SO I APPRECIATE THAT.

12:42:08 15 AGAIN, MR. PAK, I'M JUST LOOKING TO SEE IF YOU HAVE  
12:42:16 16 DISCLOSED THE IDENTITY OF WHERE IN IOS THIS -- EACH OF THESE  
12:42:20 17 HELP DESCRIPTIONS CAN BE FOUND.

12:42:22 18 MR. PAK: I THINK THAT WE -- I DON'T THINK IN THESE  
12:42:25 19 PARTICULAR ROG RESPONSES WE WERE ASKED FOR THAT INFORMATION,  
12:42:27 20 WERE WE? I DON'T THINK THIS IS THE ROG RESPONSE.

12:42:31 21 MR. WONG: I BELIEVE SO --

12:42:32 22 THE COURT: LET'S BACK UP. YOU ALSO HAVE TO PROVE  
12:42:34 23 THAT.

12:42:35 24 MR. PAK: YES.

12:42:35 25 THE COURT: YOU STILL HAVEN'T GIVEN ME ANYTHING THAT

12:42:37 1 EVEN OUTPUT LINES WHERE THE HELP DESCRIPTIONS CAN BE FOUND IN  
12:42:43 2 THE REGISTERED WORK.

12:42:45 3 MR. PAK: AND I THINK THAT OUR -- WE HAVE  
12:42:47 4 DR. ALMEROOTH WHO WILL TESTIFY TO THAT EFFECT, THAT HE  
12:42:50 5 ANALYZED --

12:42:52 6 THE COURT: THIS DOCUMENT DOESN'T PROVIDE THE  
12:42:54 7 INFORMATION.

12:42:54 8 MR. PAK: CORRECT.

12:42:55 9 THIS DOCUMENT, THIS PARTICULAR DOCUMENT DOES NOT IDENTIFY  
12:42:57 10 THE SPECIFIC SOURCE CODE FILES WITH RESPECT TO CISCO. I AGREE  
12:43:02 11 WITH THAT, YOUR HONOR.

12:43:03 12 THE COURT: OKAY. I WOULD NOT REALLY BE IMAGINING  
12:43:06 13 THAT DR. ALMEROOTH WOULD BE SO BOLD AS TO SAY, I'VE READ ALL THE  
12:43:10 14 SOURCE CODE, AND TRUST ME, THEY'RE ALL THERE.

12:43:13 15 MR. PAK: RIGHT.

12:43:15 16 HE WILL BE -- SO IF YOUR HONOR IS REQUIRING US TO GO  
12:43:18 17 THROUGH AND IDENTIFY SPECIFIC HELP DESCRIPTIONS TO SPECIFIC  
12:43:22 18 VERSIONS OF IOS, IS THAT THE --

12:43:25 19 THE COURT: WELL, I THINK IT NEEDS TO BE A LITTLE  
12:43:27 20 MORE GRANULAR THAN THAT, AND THEN WE STILL RUN INTO THE  
12:43:31 21 DISCLOSURE PROBLEM.

12:43:32 22 MR. WONG: EXACTLY, YOUR HONOR.

12:43:33 23 THE COURT: BUT I'M LOOKING AT THIS ON TWO LEVELS OF  
12:43:36 24 PROBLEMS.

12:43:36 25 FIRST OF ALL, AN UTTER FAILURE OF PROOF ON YOUR PART, IF

12:43:40 1 THIS IS YOUR EXHIBIT, TO ESTABLISH THAT THESE ARE REGISTERED  
12:43:46 2 WORKS.

12:43:47 3 AND SECOND, ONCE YOU CAN SHOW ME THE SOURCE OF -- YOUR  
12:43:52 4 EVIDENCE ON IT, THEN MR. WONG CAN ADVISE THE COURT AS TO  
12:43:55 5 WHETHER IT WAS DISCLOSED.

12:43:57 6 AND UNTIL HE SEES WHAT YOU'RE PUTTING FORTH, IT'S ONLY A  
12:44:01 7 GENERAL STATEMENT BY HIM THAT YOU DON'T HAVE ANYTHING, IF  
12:44:05 8 THAT'S WHAT WE'RE NEEDING.

12:44:07 9 MR. PAK: YOUR HONOR, LET ME TAKE A LOOK AT  
12:44:10 10 DR. ALMEROTH'S EXPERT REPORT. WE WILL LOOK AT ALL THE  
12:44:13 11 DISCOVERY RESPONSES AND GET BACK TO YOU ON THAT.

12:44:16 12 BECAUSE WHAT I UNDERSTOOD WAS WE WERE ARGUING ABOUT THIS  
12:44:19 13 PARTICULAR DOCUMENT, AND I UNDERSTOOD THE COMPLAINT TO BE THAT  
12:44:22 14 THIS PARTICULAR DOCUMENT, 4799, DID NOT IDENTIFY SPECIFIC  
12:44:28 15 VERSIONS.

12:44:29 16 AND IT WAS OUR VIEW THAT WE HAD IDENTIFIED BY OPERATING  
12:44:32 17 SYSTEM TYPE, AND THAT WAS SUFFICIENT.

12:44:34 18 BUT IF YOUR HONOR IS ASKING US TO GO BACK AND LOOK AT ON A  
12:44:39 19 PERVERSION BASIS, THEN WE WILL SEE WHAT'S --

12:44:42 20 THE COURT: ACTUALLY, I WANT TO BE CLEAR, I'M JUST  
12:44:44 21 TRYING TO RULE ON THE OBJECTION PUT FORTH BY ARISTA. I'M NOT  
12:44:48 22 ASKING FOR ANYTHING.

12:44:50 23 AND FRANKLY, MR. PAK, IF AT THE END OF THE DAY, YOU REST  
12:44:53 24 AND YOU HAVE NOT PROVED YOUR CASE, I WILL THEN GET A MOTION  
12:44:57 25 FROM ARISTA, I'M NOT DOING ANYTHING ON MY OWN.

12:45:00 1 MR. PAK: WE UNDERSTAND.

12:45:01 2 THE COURT: BUT SINCE I HAVE A DUTY TO LET YOU REOPEN  
12:45:04 3 IF THERE'S A FUNDAMENTAL FAILURE TO PRODUCE EVIDENCE, WE MAY AS  
12:45:08 4 WELL GET TO IT NOW.

12:45:10 5 MR. PAK: WE WILL GET TO THAT, YOUR HONOR, WE WILL.

12:45:11 6 THE COURT: I APPRECIATE THAT.

12:45:12 7 MR. WONG: YOUR HONOR, IOS XR HAS A SLIGHTLY  
12:45:16 8 DIFFERENT PROBLEM BUT IT'S ALSO PROBLEMATIC.

12:45:16 9 THE COURT: SO THAT'S STILL PART OF THIS DOCUMENT?

12:45:18 10 MR. WONG: SO IT'S THEIR HELP DESCRIPTION SUMMARY  
12:45:19 11 EXHIBIT THAT WE ARE TALKING ABOUT.

12:45:20 12 THE COURT: THIS IS 4799?

12:45:22 13 MR. WONG: YES. 4799 HAS A SECOND PART OF IT THAT  
12:45:33 14 WAS ABOUT HELP DESCRIPTIONS FOR IOS XR.

12:45:35 15 THE COURT: YES. AND THAT'S AT PAGE 10?

12:45:38 16 MR. WONG: YES.

12:45:39 17 AND FOR IOS XR, THE ONLY VERSION OF IOS XR THAT THEY  
12:45:42 18 DISCLOSE TO US WHERE THESE CAN BE FOUND IS AN UNREGISTERED  
12:45:47 19 VERSION.

12:45:48 20 THE COURT: THAT'S THE 514?

12:45:49 21 MR. WONG: THAT'S THE 514.

12:45:51 22 THE COURT: SO THAT'S IS SUBJECT -- THAT'S IN YOUR  
12:45:53 23 MOTION?

12:45:53 24 MR. WONG: CORRECT.

12:45:55 25 THE COURT: OKAY. ARE WE MOVING BACK TO --



12:45:57 1 MR. WONG: AND SO THE PROBLEM FOR THIS ONE,  
12:46:00 2 YOUR HONOR, IS THAT THEY DON'T IDENTIFY A VERSION OF IOS XR IN  
12:46:04 3 THAT SUMMARY TRIAL EXHIBIT, AND IF THE ONLY THING THEY CAN  
12:46:07 4 POINT TO IS THIS IOS XR 514, THAT'S NOT EVEN A REGISTERED WORK.

12:46:14 5 THE COURT: SO JUST SO THAT I CAN BE CLEAR, BECAUSE  
12:46:16 6 I'VE NEVER HEARD OF IOS XR 514 BEFORE YOUR MOTION, IT'S YOUR  
12:46:20 7 POSITION THAT WOULD -- THAT WOULD BE A SEPARATE WORK FROM IOS  
12:46:30 8 XR.

12:46:30 9 MR. WONG: YES, YOUR HONOR.

12:46:31 10 AND THEY, IN FACT -- AS THEY, IN THEIR COMPLAINT,  
12:46:34 11 IDENTIFIED 26 REGISTERED WORKS.

12:46:35 12 AND THERE ARE CERTAIN VERSIONS OF IOS XR THAT ARE PART OF  
12:46:38 13 THAT. THERE IS NO IOS XR 514 THAT'S REGISTERED OR ASSERTED IN  
12:46:42 14 THIS CASE.

12:46:43 15 THE COURT: OKAY. WELL, I THINK I UNDERSTAND THAT  
12:46:48 16 ARGUMENT.

12:46:48 17 AND IS THAT -- THAT IS PART OF YOUR ARGUMENT TO LIMIT  
12:46:54 18 DR. JAFFE'S --

12:46:57 19 MR. WONG: ALMEROOTH, ACTUALLY.

12:46:59 20 THE COURT: OH, ALMEROOTH.

12:47:02 21 MR. WONG: SO THIS IS REALLY, ACTUALLY, AN OBJECTION  
12:47:04 22 TO THE SUMMARY EXHIBIT, YOUR HONOR, BECAUSE THE UNDERLYING  
12:47:07 23 EVIDENCE WOULD NOT BE ADMISSIBLE.

12:47:14 24 THE COURT: OKAY.

12:47:15 25 SO MR. NELSON, WHAT CAN YOU TELL ME?

12:47:18 1 MR. NELSON: SO MAYBE I CAN CLARIFY SOMETHING OR  
12:47:20 2 UNDERSTAND THE CONCERNS.

12:47:22 3 SO THERE'S THE 26 REGISTRATIONS THAT INCLUDE THE MANUALS  
12:47:25 4 AND THE SOURCE CODE THAT ARE GOING IN, THAT'S AGREED THROUGH  
12:47:28 5 THE SUMMARY THAT WE HAVE. THOSE CORRESPOND TO VARIOUS  
12:47:35 6 VERSIONS.

12:47:35 7 THE VERSIONS ARE, LIKE WE TALKED ABOUT WHEN WE WERE DOING  
12:47:38 8 THE DEFINITION OF THE REGISTERED WORK, ARE -- THEY CARRY  
12:47:42 9 FORWARD, RIGHT? YOU BUILD UPON ONE LIKE EPISODES IN ANOTHER.

12:47:46 10 SO THE WORKS THAT WE DEFINED WERE THE FOUR WORKS WHICH  
12:47:49 11 WERE THE USER INTERFACE FOR EACH, THEY ARE NOT 26 SEPARATE,  
12:47:52 12 THERE'S ONE FOR IOS.

12:47:54 13 AND SO WHAT WE'VE IDENTIFIED IS THE EARLIEST VERSION  
12:47:59 14 BECAUSE THAT WAS THE QUESTIONED THAT WAS ASKED BUT THAT CARRIES  
12:48:01 15 FORWARD INTO THE REGISTERED VERSIONS THAT WE HAVE INTO  
12:48:04 16 EVIDENCE.

12:48:04 17 SO IN OTHER WORDS, WE HAVE THE SOURCE CODE, THE MANUALS  
12:48:09 18 AND SUCH FOR THE REGISTRATIONS FOR IOS XR.

12:48:12 19 THE COURT: OKAY.

12:48:13 20 MR. NELSON: AND THOSE HELP DESCRIPTIONS CARRY INTO  
12:48:15 21 THOSE VERSIONS SO THEY ARE REGISTERED WORKS THAT HAVE THOSE.

12:48:18 22 WHAT THEY ASKED US FOR --

12:48:20 23 THE COURT: I THINK WHAT I'M HEARING FROM YOU IS THAT  
12:48:23 24 IF THERE IS SOMETHING CALLED IOS XR 514, IT MAY CONTAIN AS PART  
12:48:30 25 OF IT, WHAT IS REGISTERED IN IOS XR. IT MAY OR IT MAY NOT.

12:48:36 1 AND TO PRESENT THE 514 VERSION, IS NOT TO PRESENT EVIDENCE  
12:48:41 2 OF WHAT'S IN THE PREDECESSOR REGISTERED WORK.

12:48:45 3 MR. NELSON: THE OTHER WAY AROUND. THAT'S EARLIER,  
12:48:47 4 AND WE ARE TALKING ABOUT --

12:48:48 5 THE COURT: 514 IS EARLIER?

12:48:50 6 MR. NELSON: YEAH.

12:48:51 7 AND SO WE ARE TALKING ABOUT LATER. BUT THOSE ARE THE  
12:48:57 8 WORKS AS WE DEFINED IT, SO THERE'S FOUR, AND I'M TALKING ABOUT  
12:49:01 9 THE USER INTERFACES NOW, IOS, WHICH WOULD INCLUDE THE VERSIONS,  
12:49:05 10 AND THERE'S SEPARATE REGISTERED ONES THAT CARRY FORWARD  
12:49:09 11 BECAUSE --

12:49:10 12 THE COURT: I'M CONFUSED ABOUT CARRIED FORWARD AND  
12:49:13 13 CARRIED BACK.

12:49:13 14 MR. NELSON: MEANING THEY ALL BUILD UPON. NOTHING  
12:49:16 15 GETS TAKEN OUT, SO THERE MAY BE THINGS THAT ARE ADDED INTO  
12:49:19 16 THOSE VERSIONS.

12:49:21 17 SO WITH RESPECT TO THESE HELP DESCRIPTIONS, THAT'S WHY  
12:49:24 18 THEY ARE BROKEN DOWN THAT WAY. BUT THE EVIDENCE OF WHERE THESE  
12:49:27 19 ARE FOUND IN THE REGISTERED WORKS IS IN THE SOURCE CODE THAT'S  
12:49:31 20 BEING ENTERED.

12:49:32 21 SO THOSE THINGS ARE ALL THERE. AND THEY ARE CARRIED --  
12:49:38 22 DON'T START WAVING YOUR ARMS AROUND ME -- SO THAT THE SOURCE  
12:49:44 23 CODE FOR THE VERSIONS THAT ARE REGISTERED AND SUBMITTED INTO  
12:49:47 24 EVIDENCE OR WILL BE WITH MR. LANG TODAY, THOSE INCLUDE THESE  
12:49:50 25 HELP DESCRIPTIONS AS WELL.

12:49:51 1 SO I'M A BIT CONFUSED AS TO WHAT THE OBJECTION IS.

12:49:56 2 THE COURT: WELL, I THOUGHT THE OBJECTION WAS PRETTY  
12:49:58 3 STRAIGHTFORWARD. I DIDN'T KNOW IF IT WAS CORRECT OR NOT, BUT  
12:50:02 4 THERE IS -- YOU ARE OFFERING, AS SUPPORTING DOCUMENTATION  
12:50:07 5 REGARDING HELP DESCRIPTIONS, COPYING OF CISCO IOS XR 514. AND  
12:50:17 6 CERTAINLY THE REPORT RELIES UPON THAT.

12:50:19 7 NOW, FIRST OF ALL, NOTHING IN THE PAPERS I GOT SHOWED ME  
12:50:23 8 THAT IT WAS A PREDECESSOR VERSION TO THE REGISTERED IOS XR.

12:50:31 9 MR. WONG: IT'S NOT, YOUR HONOR.

12:50:32 10 THE EARLIEST VERSION OF IOS XR THEY HAVE HERE IN THE  
12:50:36 11 COMPLAINT IS IOS XR 3.0, SO THAT'S GOT TO BE BEFORE 5.4.

12:50:41 12 THE COURT: I DON'T KNOW HOW THEY NUMBER THEM.

12:50:44 13 MR. WONG: WE ACTUALLY ASKED THEIR CORPORATE REP WHAT  
12:50:47 14 DOES 514 MEAN, BECAUSE IT DOESN'T SOUND LIKE A VERSION NUMBER,  
12:50:51 15 SO IT'S STILL A MYSTERY OF WHAT 514 IS.

12:50:54 16 THE COURT: YOU ARE TELLING ME IT PREDATES, BUT DO  
12:50:57 17 YOU HAVE ANY EVIDENCE OF THAT?

12:50:58 18 MR. NELSON: I DON'T KNOW, AS I STAND HERE, SO I'M  
12:51:00 19 NOT GOING TO REPRESENT ONE WAY OR THE OTHER.

12:51:02 20 THE COURT: OKAY. WELL, RIGHT NOW I CAN'T LET THAT  
12:51:04 21 IN, MR. NELSON. I GUESS DR. ALMEROOTH -- YOU ARE GOING TO HAVE  
12:51:08 22 A LITTLE CHAT WITH HIM BEFORE HE TAKES THE STAND.

12:51:11 23 MR. PAK: YES, YOUR HONOR. LET ME ADDRESS THAT  
12:51:14 24 QUESTION RIGHT NOW.

12:51:15 25 THE COURT: OKAY.

12:51:16 1 MR. PAK: WITH RESPECT TO 514 --

12:51:18 2 THE COURT: WELL, THAT'S DIFFERENT.

12:51:20 3 MR. PAK: -- THIS IS THE VERSION IOS XR IS 5.14, THE  
12:51:24 4 ONE WE ARE JUST DEALING WITH NOW.

12:51:27 5 THE COURT: I DON'T BELIEVE THAT IT WAS 5.14 IN THE  
12:51:30 6 REPORT. LET'S SEE.

12:51:32 7 MR. PAK: IT IS 5.14, YOUR HONOR.

12:51:35 8 THE COURT: DID I MISS THAT?

12:51:36 9 MR. WONG: I DON'T THINK IT'S IDENTIFIED AS 5.14.

12:51:39 10 MR. PAK: IT'S 5.14, YOUR HONOR.

12:51:41 11 THIS IS WHAT IOS XE-- THE IOS XR VERSIONS THAT WERE  
12:51:50 12 REGISTERED GO FROM VERSION 3.0 TO 5.2. THE VERSION WE ARE  
12:51:56 13 TALKING ABOUT -- THERE IS NO SUCH THING -- THE VERSION WE ARE  
12:52:01 14 TALKING ABOUT IS IOS XR 5.14. AND THAT VERSION IS CLEARLY  
12:52:04 15 WITHIN THE RANGE OF THE REGISTERED WORKS THAT WE'VE IDENTIFIED.

12:52:07 16 MR. WONG: YOUR HONOR, I CAN HAND UP THEIR LISTING OF  
12:52:10 17 26 IOS XR VERSIONS, AND THERE IS NOT EVEN AN IOS 5.1. AND I'M  
12:52:16 18 ASSUMING AN IOS 5.14 IS A DERIVATIVE --

12:52:19 19 THE COURT: I'M JUST LOOKING FOR THE PORTION OF --  
12:52:22 20 AND MAYBE I DON'T HAVE IT -- OF -- NO, THAT'S DR. JAFFE. I MAY  
12:52:28 21 NOT HAVE DR. ALMEROTH ON THIS ISSUE. I THOUGHT I DID.

12:52:35 22 MR. PAK: SO YOUR HONOR, THE REGISTERED WORKS WITH  
12:52:37 23 RESPECT TO IOS XR IS IOS XR VERSION 3.0 THROUGH 5.2.

12:52:47 24 THE COURT: THAT'S A REGISTERED?

12:52:50 25 MR. PAK: THOSE ARE ALL REGISTERED, YOUR HONOR.

12:52:51 1 THE COURT: THROUGH 5. --

12:52:53 2 MR. PAK: 20.

12:52:56 3 THE COURT: OKAY.

12:52:57 4 MR. PAK: THE VERSION THAT WE IDENTIFIED AS PART  
12:52:59 5 OF -- SO FOR IOS XR, WE DID IDENTIFY A PARTICULAR VERSION THAT  
12:53:03 6 IT APPEARS IN THE SOURCE CODE FILES, THAT IS VERSION 5.14.  
12:53:09 7 THAT FALLS DIRECTLY WITHIN THE RANGE OF THE WORKS THAT WERE  
12:53:13 8 REGISTERED. AND FURTHERMORE, 5.14 PREDATES ALL THE SUBSEQUENT  
12:53:18 9 VERSIONS LEADING UP TO 5.20.

12:53:21 10 THE COURT: OKAY. SO I APPRECIATE THAT, AND I DON'T  
12:53:23 11 MEAN TO BE A STICKLER FOR THIS, I'M LOOKING AT PAGE 1 OF  
12:53:27 12 ARISTA'S BRIEF, I'M LOOKING AT LINE 18. AND I'M SORRY, I DON'T  
12:53:31 13 HAVE EXHIBIT 593 IN FRONT OF ME, BUT THAT'S THE -- AND I DON'T  
12:53:38 14 KNOW WHETHER I CAN FIND 593, BUT I DON'T KNOW --

12:53:42 15 MR. WONG: WE CAN PUT IT UP, YOUR HONOR.

12:53:44 16 THE COURT: THAT WOULD BE GREAT. PAGE 20?

12:53:46 17 MR. PAK: YES. EXACTLY. SO THAT'S THE NOTATION FOR  
12:53:58 18 5.14.

12:53:58 19 THE COURT: MY EYESIGHT IS NOT GREAT, BUT THERE'S NO  
12:54:02 20 DOT BETWEEN 5 AND 14.

12:54:04 21 MR. PAK: OF COURSE. BUT EVERYBODY UNDERSTANDS THIS  
12:54:07 22 IS THE --

12:54:07 23 THE COURT: I'M SORRY.

12:54:08 24 BUT AGAIN, I'M THE LAYPERSON HERE, BUT I NEED TO BE SURE  
12:54:12 25 OF THAT.

12:54:13 1 AND MR. WONG, DON'T TAKE ADVANTAGE OF MY IGNORANCE TO  
12:54:19 2 THINK THAT YOU HAVE DRIVEN A WEDGE HERE.

12:54:21 3 MR. WONG: YOUR HONOR, WE ASKED CISCO'S CORPORATE  
12:54:29 4 REPRESENTATIVE, MR. LOUGHEED, WHO WAS DESIGNATED TO TALK ABOUT  
12:54:32 5 THESE HELP DESCRIPTIONS, THAT'S THE ONE DEPOSITION YOU ALLOWED  
12:54:35 6 US TO TAKE AFTER THIS WAS BROUGHT IN. AND WE ASKED  
12:54:38 7 MR. LOUGHEED, WHAT DOES 514 MEAN? AND WE DIDN'T GET AN ANSWER  
12:54:43 8 TO THAT.

12:54:43 9 MR. PAK: YOUR HONOR, FIVE -- BOTH EXPERTS HAVE  
12:54:46 10 ANALYZED ALL THESE OPERATING SYSTEMS. THERE IS NO 514TH  
12:54:51 11 VERSION OF ANY OF THIS.

12:54:52 12 WE ALL UNDERSTAND, AND WE CAN GO THROUGH AND LOOK AT THIS,  
12:54:55 13 IT'S CLEAR THAT THERE ARE VERSIONS THAT START WITH 3.0 FOR IOS  
12:55:00 14 XR, IT GOES TO 5.20. THIS NOTATION IS CLEARLY INDICATING  
12:55:06 15 VERSION 5.14, WHICH IS THE 14TH VERSION OF THE FIFTH GENERATION  
12:55:12 16 OF IOS XR.

12:55:14 17 MR. WONG: THE PROBLEM WITH THAT ARGUMENT,  
12:55:15 18 YOUR HONOR, IS THAT WE DON'T KNOW IF THEY REMOVED ANY OF THESE  
12:55:19 19 HELP DESCRIPTIONS FROM 5.14 WHEN --

12:55:21 20 MR. PAK: BUT THAT WAS MR. NELSON'S POINT.

12:55:22 21 SO BY THE WAY, BOTH -- ALL OF THESE COMPUTER FILES THAT WE  
12:55:26 22 ARE TALKING ABOUT WERE PRODUCED TO THE OTHER SIDE. THEY HAD  
12:55:28 23 THEIR EXPERTS COME IN, ANALYZE ALL OF THESE SOURCE CODE FILES.

12:55:33 24 THE COURT: EACH VERSION.

12:55:33 25 MR. PAK: YES, YOUR HONOR. AND HE KNEW, THEIR EXPERT

12:55:36 1 ABSOLUTELY KNEW THAT THESE WERE FILES THAT EXISTED IN THE 5.14  
12:55:40 2 VERSION OF IOS XR.

12:55:42 3 THE FACT THAT A PERIOD DOESN'T APPEAR, DOESN'T MEAN THAT  
12:55:45 4 THE EXPERTS DIDN'T UNDERSTAND THE VERSION.

12:55:47 5 THE COURT: SO, IT DOES NOT MEAN THAT, BUT --

12:55:49 6 MR. PAK: YES.

12:55:49 7 THE COURT: BUT THAT'S -- THAT'S WHAT PROOF IS ALL  
12:55:52 8 ABOUT, THOUGH, IS THAT YOU CAN'T JUST ASSUME A COMMON  
12:55:55 9 UNDERSTANDING OF A -- OF AN INVISIBLE DOT.

12:56:00 10 MR. PAK: ABSOLUTELY, YOUR HONOR.

12:56:01 11 AND WHAT WE ARE GOING TO DO IS BOTH SIDES HAVE SEEN ALL  
12:56:04 12 THE SOURCE CODE, THIS ISSUE WAS NEVER RAISED, WE'VE HAD THEIR  
12:56:07 13 EXPERTS ANALYZE, AND HE PUT IN A SUPPLEMENTAL EXPERT REPORT.  
12:56:11 14 HE KNEW EXACTLY WHAT TO LOOK FOR.

12:56:13 15 HE LOOKED AT -- WE'VE IDENTIFIED -- YOUR HONOR, MAY I SHOW  
12:56:18 16 THIS ON WILL ELMO? YOU HAVE IT HERE. SEE, THIS IS IOS XR  
12:56:24 17 5.14, AND YOU CAN SEE ALL THE DIFFERENT SOURCE CODE FILES  
12:56:27 18 THAT --

12:56:27 19 THE COURT: SURE.

12:56:28 20 MR. PAK: -- THAT ARE FOUND.

12:56:29 21 AND THEN IF YOU MOVE UP THERE, YOU SEE EOS VERSION 4.13.5,  
12:56:37 22 AND THAT'S THE SOURCE CODE FOUND IN ARISTA.

12:56:39 23 I HAVE A SEPARATE ISSUE, YOUR HONOR, THAT WE ARE GOING TO  
12:56:42 24 INVESTIGATE ON IOS. BUT WITH WITH RESPECT TO IOS XR, WE HAVE A  
12:56:46 25 PARTICULAR VERSION, THAT VERSION FALLS WITHIN THE RANGE OF THE



12:56:49 1 COPYRIGHTED WORKS. WE PRODUCED ALL OF THE SOURCE CODE FILES  
12:56:52 2 WITHIN THAT RANGE. THEIR EXPERTS HAVE BEEN ABLE TO ANALYZE --  
12:56:56 3 THE COURT: SO YOU ARE SUGGESTING THAT BECAUSE YOU  
12:56:58 4 SUBMITTED ALL THE SOURCE CODE, THAT IF, PER CHANCE, ONE OF  
12:57:01 5 THESE STRINGS WAS NOT PRESENT IN THE ASSERTED WORK, THAT THEY  
12:57:08 6 COULD OFFER THAT.

12:57:09 7 MR. PAK: ABSOLUTELY. THEY COULD.

12:57:10 8 AND THAT WAS THE WHOLE POINT OF MAKING THESE SOURCE CODE  
12:57:12 9 FILES AVAILABLE FOR OTHER SIDE. THEIR EXPERT HAD A CHANCE TO  
12:57:17 10 PUT IN A SUPPLEMENTAL EXPERT REPORT. WE DID NOT RESPOND TO IT.  
12:57:20 11 HE DID NOT IDENTIFY ANY DISAGREEMENT WITH OUR ASSERTION THAT  
12:57:25 12 THIS VERSION OF THE SOURCE CODE HAS THESE HELP DESCRIPTIONS IN  
12:57:28 13 IT.

12:57:28 14 THE COURT: WELL, MR. WONG, AT THIS POINT, I ASSUME  
12:57:33 15 YOU DON'T WANT THIS TO VEER OFF INTO THIS 5.14 ISSUE VERSUS  
12:57:39 16 514.

12:57:39 17 YOU'VE PROPERLY IDENTIFIED IT FOR ME, AND AS YOU'VE  
12:57:43 18 EXTRACTED IT FROM THIS DOCUMENT, 593, IT WOULD NOT SEEM TO FALL  
12:57:48 19 WITHIN THE COPYRIGHTED WORKS. BUT WE ARE REALLY TALKING NOT  
12:57:51 20 ABOUT THE COPYRIGHTED WORKS, BUT INSTEAD ABOUT PERHAPS AN  
12:58:00 21 OVERSIGHT BY THE EXPERT IN NOT EXACTLY REPRESENTING WHAT IT  
12:58:03 22 WAS.

12:58:03 23 MR. WONG: AND YOUR HONOR, IF IT IS 5.14, THAT'S  
12:58:06 24 ACTUALLY AFTER 5.2, AND THAT'S THE LATEST REGISTERED WORK  
12:58:09 25 THAT'S IN THIS CASE.

12:58:09 1 THE COURT: THAT I DON'T KNOW.

12:58:10 2 MR. PAK: THAT'S NOT HOW THE NUMBERING WORKS,  
12:58:12 3 YOUR HONOR.

12:58:13 4 SO THE WAY IT WORKS IS IT'S 5.11, 5.12, 5.13, 5.14, 5.16,  
12:58:29 5 5.17, 5.19 AND THEN IT GOES TO 5.20, WHICH IS 5.2.

12:58:33 6 SO --

12:58:34 7 THE COURT: SO IS 5. -- DO YOU AGREE THAT 5.2 IS A  
12:58:37 8 REGISTERED WORK AT ISSUE?

12:58:40 9 MR. WONG: I THINK 5.2 IS A REGISTERED WORK AT ISSUE.

12:58:45 10 THE COURT: AND THEY HAVE BEEN SUBMITTED AS A RANGE?

12:58:47 11 MR. PAK: ABSOLUTELY, YOUR HONOR. IN THESE COPYRIGHT  
12:58:49 12 REGISTRATIONS.

12:58:50 13 MR. WONG: I'M GOING TO HAND THIS UP BECAUSE IT'S NOT  
12:58:52 14 A RANGE IN THE COMPLAINT.

12:58:54 15 THE COURT: WHERE DOES THIS COME FROM? IS THIS FROM  
12:58:57 16 THE COMPLAINT?

12:58:58 17 MR. WONG: THIS IS FROM THEIR COMPLAINT, YOUR HONOR.

12:59:01 18 IT'S A LIST OF THEIR REGISTERED WORKS, AND IT ACTUALLY  
12:59:04 19 JUMPS TO FROM 5.2 TO SOMETHING BEFORE THAT, BUT THERE IS NO  
12:59:07 20 RANGE.

12:59:09 21 THE COURT: BUT WEREN'T THE COPYRIGHTED WORKS  
12:59:11 22 ATTACHED TO THE COMPLAINT?

12:59:14 23 MR. PAK: YES.

12:59:14 24 THE COURT: SO WOULDN'T EACH OF THE VERSIONS HAVE  
12:59:16 25 BEEN ATTACHED?

12:59:17 1 MR. WONG: THOSE SPECIFIC VERSIONS WERE ATTACHED, BUT  
12:59:20 2 THERE IS NO 5.1.4 OR EVEN A 5.1 FOR IOS XR.

12:59:25 3 MR. PAK: YOUR HONOR, AS MR. NELSON TALKED ABOUT, THE  
12:59:27 4 WAY THESE REGISTRATIONS WORK IS THAT WE ARE REGISTERING  
12:59:32 5 SPECIFIC VERSIONS OF OPERATING SYSTEMS OVER TIME. SOMETIMES WE  
12:59:36 6 DON'T REGISTER INTERMEDIATE VERSIONS BECAUSE IT  
12:59:40 7 PRE-INCORPORATES MATERIAL THAT EXISTS.

12:59:42 8 THERE'S NO DISPUTE THAT THESE SOURCE CODE FILES EXIST IN  
12:59:45 9 5.20, WHICH WAS REGISTERED. NO DISPUTE ABOUT THAT.

12:59:49 10 THE COURT: WELL, THEN THAT'S WHAT YOUR EXPERT IS  
12:59:51 11 GOING TO HAVE TO SAY.

12:59:52 12 MR. PAK: ABSOLUTELY. AND THAT IS WHAT HE'S GOING TO  
12:59:54 13 SAY.

12:59:54 14 AND HE'S GOING TO TESTIFY THAT IN THE PROCESS OF CREATING  
12:59:57 15 THESE DIFFERENT VERSIONS, THE HELP DESCRIPTIONS ARE NOT  
01:00:00 16 REMOVED, 5.14 FALLS WITHIN THE RANGE OF THE WORKS, HE'S GOING  
01:00:04 17 TO TESTIFY THAT THESE PARTICULAR FILES THAT HE LOOKED AT  
01:00:08 18 CORRESPOND TO VERSION 5.14. IN TERMS OF THE NAMING SCHEME,  
01:00:13 19 5.14 PRECEDES 5.20.

01:00:16 20 MR. WONG: YOUR HONOR --

01:00:17 21 THE COURT: SO WHAT I'VE GOT HERE ON XR ARE SOME  
01:00:21 22 EXPRESSLY IDENTIFIED VERSIONS.

01:00:27 23 MR. PAK: CORRECT, YOUR HONOR. AND THEN IF YOU LOOK  
01:00:29 24 AT --

01:00:30 25 THE COURT: WELL, I'M JUST SAYING THAT WHAT YOU'VE

01:00:32 1 GOT IS, FOR IOS XR YOU'VE GOT 3.2, 3.3, 3.4, 3.5, 4.3 AND 5.2.

01:00:47 2 MR. PAK: YES.

01:00:47 3 THE COURT: ALL RIGHT.

01:00:49 4 AND YOU WOULD BE OFFERING AS BACKGROUND TESTIMONY OF, I

01:00:57 5 DON'T KNOW, NOT THE EXPERT, I SUPPOSE, IT'S A FACT WITNESS.

01:01:00 6 MR. PAK: WE WILL HAVE MR. LANG PUT IN THE FOUNDATION  
01:01:03 7 AS WELL.

01:01:04 8 THE COURT: AND SO YOU WOULD BE SAYING, IT'S YOUR  
01:01:06 9 CONTENTION HERE THAT PREVIOUSLY INCLUDED STRINGS ARE NOT  
01:01:15 10 REMOVED IN LATER VERSIONS?

01:01:17 11 MR. NELSON: CORRECT.

01:01:18 12 IN FACT, MR. KATHAIL TESTIFIED TO THAT YESTERDAY. HE SAID  
01:01:21 13 THAT NOTHING IS EVER TAKEN OUT. ONCE SOMETHING IS PUT IN, IT'S  
01:01:26 14 NEVER TAKEN OUT.

01:01:27 15 THE COURT: SO ALL THESE STRINGS ARE IN 5.2?

01:01:30 16 MR. PAK: YES. AND THEY'VE NEVER DISPUTED THAT.  
01:01:34 17 THIS IS A BRAND-NEW ISSUE.

01:01:35 18 MR. WONG: THAT'S FINE. BUT DR. ALMEROTH DOESN'T  
01:01:37 19 HAVE THAT IN HIS REPORT. SO THERE'S NOTHING THAT HE CAN SAY  
01:01:41 20 ABOUT THAT.

01:01:42 21 MR. PAK: NO, DR. ALMEROTH CLEARLY HAS 5.14. HE CAN  
01:01:45 22 LAY THE FOUNDATION TO SAY HE ANALYZED VERSION 5.14, THAT IS AN  
01:01:49 23 INTERMEDIATE NUMBER THAT FALLS WITHIN THE RANGE OF THE  
01:01:53 24 COPYRIGHTED REGISTERED WORKS.

01:01:54 25 MR. LANG WILL TESTIFY THAT THESE WERE REGISTERED AT

01:01:59 1 DIFFERENT POINTS IN TIME AND THAT IT GOES UP TO 5.2. HE WILL  
01:02:03 2 CLARIFY ON THE RECORD, YOUR HONOR, THAT 5.14 PRECEDES 5.20.

01:02:08 3 THE COURT: WELL, I WILL LET THAT EVIDENCE COME IN.  
01:02:10 4 AND YOU ARE GOING TO -- HOPEFULLY THE JURY WILL BE WITH YOU ON  
01:02:15 5 IT.

01:02:15 6 OKAY. SO WE'VE RESOLVED EVERYTHING ON THE FIRST ISSUE  
01:02:18 7 INVOLVING DR. ALMEROTH.

01:02:22 8 IT'S NOW AFTER 1:00. LET'S -- WE ARE ON THE CLOCK HERE.

01:02:28 9 MR. WONG: YOUR HONOR, THE NEXT ISSUE IS -- SHOULD BE  
01:02:31 10 FAIRLY QUICK.

01:02:32 11 IT'S JUST -- IT'S 4796, AND THIS IS THEIR SUMMARY EXHIBIT  
01:02:41 12 THAT BASICALLY IS THEIR CONTENTIONS IN THIS CASE. IT'S THE ONE  
01:02:45 13 THAT SAYS, CISCO'S CLI -- IT'S ON THE SCREEN RIGHT NOW,  
01:02:49 14 ACTUALLY.

01:02:50 15 IT'S THE ONE THAT SAYS, YOU KNOW, THE COMMAND EXPRESSION  
01:02:53 16 CISCO AND THE COMMAND EXPRESSION ARISTA'S, WE OBJECT TO THIS AS  
01:02:57 17 SIMPLY BEING AN IMPROPER SUMMARY EXHIBIT.

01:03:00 18 UNLIKE THE OTHER ONES, WHICH WE AGREED TO WHICH ACTUALLY  
01:03:04 19 HAVE EXCERPTS FROM VOLUMINOUS MANUALS AND DOCUMENTATION, AS YOU  
01:03:08 20 KNOW, YOUR HONOR, WE HEAVILY DISPUTE THAT THESE COMMAND  
01:03:11 21 EXPRESSIONS ACTUALLY EXIST; AND IN FACT, THE ACTUAL COMMANDS IN  
01:03:14 22 ARISTA'S SYSTEM ARE DIFFERENT FROM WHAT IS LISTED HERE.

01:03:18 23 THE COURT: SO THIS DOESN'T PROPERLY REFLECT WHAT IS  
01:03:21 24 IN ARISTA'S SYSTEM?

01:03:23 25 MR. WONG: THIS IS NOT -- THIS IS NOT IN ANY

01:03:26 1 VOLUMINOUS DOCUMENTS, WHICH IS WHAT 1006 IS FOR IS TO PROVE THE  
01:03:30 2 CONTENTS OF VOLUMINOUS UNDERLYING DOCUMENTS.

01:03:33 3 AND THESE COMMAND EXPRESSIONS JUST DON'T EXIST IN THE  
01:03:35 4 UNDERLYING WORK. THIS IS BASICALLY A SUMMARY OF THEIR  
01:03:38 5 CONTENTIONS AND EXPERT OPINION.

01:03:41 6 THE COURT: SO I HAVE CITATIONS TO SOURCE CODE, ISN'T  
01:03:44 7 IT?

01:03:45 8 MR. NELSON: RIGHT. SO THAT WE IMPLEMENTED THE  
01:03:48 9 SOURCE CODE, THEY ARE IN THE MANUALS AS WELL.

01:03:50 10 THE COURT: AND THESE ARE THE MANUALS THAT I GOT  
01:03:53 11 YESTERDAY?

01:03:53 12 MR. NELSON: CORRECT. WITH RESPECT TO THE COMMAND.

01:04:00 13 WHAT THEY ARE CONTENDING, THIS IS SOMETHING THEY CAN ARGUE  
01:04:03 14 ANYWAY, THIS LAYS OUT WHAT THE EXISTENCE OF THESE THINGS IN THE  
01:04:07 15 ACCUSED PRODUCTS ARE THAT CORRESPOND, RIGHT.

01:04:11 16 IF THEY WANT TO ARGUE, THEY ARE TALKING ABOUT ARGUMENTS,  
01:04:13 17 THIS HAS COME UP BEFORE, IT WAS AN ISSUE IN THE MOTION IN  
01:04:16 18 LIMINE. THESE ARE THINGS THAT THE CUSTOMERS ENTER. IF THEY  
01:04:19 19 WANT TO ARGUE THAT OH, WE ARE DIFFERENT BECAUSE WE HAVE THESE  
01:04:22 20 ARGUMENTS, THAT'S NOT A STIPULATION THAT'S --

01:04:25 21 THE COURT: I ACTUALLY TOOK THEIR ARGUMENT A LITTLE  
01:04:27 22 DIFFERENTLY, IS THAT IF I ELEVATE THIS TO BE AN ADMISSIBLE  
01:04:30 23 PIECE OF ADMISSIBLE EVIDENCE, THE JURY IS GIVEN THE OPPORTUNITY  
01:04:34 24 TO TAKE ALL OF THIS AS TRUE, AS OPPOSED TO SIMPLY A  
01:04:38 25 DEMONSTRATIVE WHICH LEADS THEM THROUGH THE EVIDENCE AND LEAVES

01:04:42 1 THEM TO LOOK AT THE EVIDENCE.

01:04:43 2 SO I DO AGREE AND YOU HAD SOME CASE CITATION FOR ME THAT I  
01:04:50 3 THINK DOES SUPPORT THE NEED FOR THESE, AN ADMITTED PIECE OF  
01:04:55 4 EVIDENCE TO NOT BE PREJUDICIAL AND ARGUMENTATIVE.

01:05:00 5 BUT AGAIN, IT'S VERY POWERFUL TO SHOW FROM THE CISCO WORK,  
01:05:04 6 AAA, ACCOUNTING, AND TO SHOW FROM THE ARISTA WORK, AAA  
01:05:09 7 ACCOUNTING. SO ANY LAYPERSON LOOKING AT THOSE WOULD SAY YEP,  
01:05:13 8 CHECK, THEY'RE THE SAME.

01:05:14 9 MR. WONG: THAT'S RIGHT, YOUR HONOR, THAT'S OUR  
01:05:16 10 CONCERN.

01:05:17 11 THE COURT: NOW WHAT I'M TRYING TO UNDERSTAND IS THAT  
01:05:21 12 YOU ARE SAYING, MR. WONG, THAT EVEN CISCO DOESN'T -- THIS IS  
01:05:24 13 NOT A COMMAND?

01:05:26 14 MR. WONG: SO FOR THE CISCO SIDE, YOUR HONOR, THE  
01:05:30 15 RESOLUTION OF THE COMPLAINT ISSUE THIS MORNING WHERE THE LIST  
01:05:33 16 OF COMMANDS, EXHIBIT 1 TO THEIR COMPLAINT IS GOING TO BE GOING  
01:05:36 17 IN.

01:05:36 18 THE COURT: YEAH.

01:05:37 19 MR. WONG: SO, YOU KNOW, THEY CAN USE THAT IF THEY  
01:05:39 20 WANT TO TALK ABOUT THE CISCO ONES.

01:05:41 21 THE COURT: OKAY.

01:05:42 22 MR. WONG: OUR BIGGEST CONCERN IS THAT THERE IS NO  
01:05:44 23 COMMAND EXPRESSIONS LIKE THESE IN THE ARISTA PRODUCTS, AND  
01:05:48 24 MR. NELSON IS RIGHT, BOTH SIDES --

01:05:51 25 THE COURT: YOU HAVE A CLI IN YOUR PRODUCT. YOU USE

01:05:54 1 THE TEXTUAL COMMUNICATION.

01:05:56 2 MR. WONG: SURE.

01:05:57 3 MR. NELSON: CORRECT.

01:05:57 4 THE COURT: AND SO YOU HAVE SOMETHING THAT WOULD BE  
01:05:59 5 EQUIVALENT TO A COMMAND LINE.

01:06:01 6 MR. WONG: YES.

01:06:02 7 THE COURT: BUT YOU ARE SAYING THAT YOU DON'T HAVE  
01:06:04 8 ONE THAT'S AAA ACCOUNTING.

01:06:06 9 MR. WONG: IF YOU ENTER AAA ACCOUNTING INTO ARISTA  
01:06:09 10 CLI AND HIT ENTER, IT WOULD GIVE YOU AN ERROR. IT WOULD SAY  
01:06:12 11 INCOMPLETE OR INVALID COMMAND.

01:06:14 12 THE COURT: WOULD THAT BE THE SAME FOR ALL 506?

01:06:17 13 MR. WONG: CLOSE TO 300 OF THEM.

01:06:18 14 MR. NELSON: SO WHAT THEY ARE TALKING ABOUT IS THE  
01:06:20 15 ARGUMENTS, RIGHT, WHERE YOU HAVE TO TALK -- THIS WAS WHEN WE  
01:06:24 16 WENT BACK, AND MR. LOUGHEED WENT THROUGH THIS, TO TALK ABOUT  
01:06:26 17 WHAT THE DISTINCTION WAS BETWEEN THE COMMAND AND THE ARGUMENT,  
01:06:30 18 WHERE IN THE OLD, LIKE IN THE OLD STANFORD SYSTEM YOU HAD  
01:06:33 19 ETHERNET ZERO, THOSE KINDS OF THINGS.

01:06:35 20 SO THAT'S WHAT THEY ARE TALKING ABOUT, WHICH IS NOT THE  
01:06:38 21 COMMAND, THOSE ARE THE ARGUMENTS TO THE COMMAND.

01:06:41 22 SO THE USER IS ALWAYS GOING TO TYPE SOME. THIS WOULD BE  
01:06:44 23 SIMILAR TO SAYING WELL, IF YOU HAVE A CASE WHERE YOU HAVE A  
01:06:47 24 COPYRIGHT OVER FORM, THAT YOU CAN'T MATCH THAT AGAINST MY FORM,  
01:06:50 25 YOU HAVE TO TAKE INTO ACCOUNT WHATEVER THE USER FILLS INTO THE



BOX. THAT'S REALLY THE ARGUMENT THEY ARE MAKING. AND THEY CAN  
MAKE THAT ARGUMENT IF THEY WANT TO.

NOW, THE ALTERNATIVE TO THAT, YOUR HONOR, IS TO, YOU KNOW,  
THEY ARE LISTED HERE, AND I CAN HAND THIS UP, IN THEIR MANUAL.  
I CAN PUT IN -- THERE'S LIKE 16 MANUALS. IT WILL TAKE A LITTLE  
WHILE TO DO THAT. IF THAT'S WHAT YOUR HONOR WOULD PREFER, I  
CAN DO THAT AND THEY CAN MAKE THEIR ARGUMENTS.

THE COURT: IT'S NOT UP TO ME TO DECIDE HOW THIS CASE  
IS PROVED. YOU PUT ON YOUR OWN CASE AND YOU RISE AND FALL ON  
IT. I'M NOT ASKING FOR ANYTHING.

MR. NELSON: I UNDERSTAND THAT, YOUR HONOR.

WHAT I'M SAYING IS WITH RESPECT TO THIS. I UNDERSTOOD YOU  
TO SAY THAT YOU WERE, PERHAPS, SOMEWHAT CONCERNED BECAUSE  
THERE'S A STRONG REPRESENTATION WHEN YOU PUT THEM SIDE BY SIDE.  
WHAT I'M SAYING IS THEY CAN MAKE THAT ARGUMENT IF THEY WANT.

NOW THIS ACTUALLY CARRIES OVER TO THE ENTIRE -- WE'VE  
HEARD A LOT OF TESTIMONY FROM THEM ABOUT WHAT USERS, YOU KNOW,  
OTHER COMPANIES ARE OUT THERE. THEIR TOTAL EVIDENCE FROM  
DR. BLACK THAT THEY ARE BASING THAT ON IS EXACTLY THE SAME  
THING, WHAT THIS COMMAND EXPRESSION IS.

SO WHEN WE WENT THROUGH THIS YESTERDAY WHEN WE WERE  
TALKING ABOUT TRYING TO RESOLVE ALL OF THESE ISSUES BECAUSE WE  
WANTED TO RESOLVE THEM ALL TOGETHER, THE SAME ISSUE CAME, AND I  
THINK YOU RECALL, I THINK IT WAS EXHIBIT G, I MIGHT HAVE THAT  
WRONG, TO DR. BLACK'S REPORT, THERE WILL BE A COMMAND NAME,

01:08:15 1 EXACTLY THIS WAY, LIKE WHAT SHOWS UP IN THEIR MANUALS AND  
01:08:19 2 EVERYBODY ELSE'S, THEN THERE WILL BE A NUMBER NEXT TO IT  
01:08:22 3 SAYING, I LOOKED AT 18 OTHERS THAT HAVE THIS.

01:08:24 4 SO WE RUN INTO EXACTLY THE SAME ISSUE BECAUSE --

01:08:27 5 THE COURT: BUT I LOST YOU A LITTLE BIT.

01:08:29 6 WAS DR. BLACK COMPARING CISCO TO 18 OTHER VENDORS OR  
01:08:32 7 ARISTA TO OTHER VENDORS?

01:08:34 8 MR. NELSON: CISCO IS THE SAME. WHAT THEY ARE SAYING  
01:08:36 9 IS --

01:08:37 10 THE COURT: BECAUSE WE ARE LOOKING AT THE ARISTA  
01:08:38 11 COLUMN HERE, THAT'S THE ISSUE.

01:08:40 12 MR. NELSON: AGREED.

01:08:40 13 BUT YOU HAVE TO DO EXACTLY THE SAME THING IN THE CISCO  
01:08:43 14 SYSTEM. ANY SYSTEM -- AND WE SHOW THIS, AND YOU WILL HAVE TO  
01:08:46 15 TYPE IN SOME ARGUMENT WITH RESPECT TO THINGS. SO THERE'S  
01:08:50 16 PLENTY OF COMMANDS WHERE THAT'S THE CASE BECAUSE YOU HAVE TO  
01:08:53 17 ADDRESS THE SWITCH OR WHATEVER IT IS THAT YOU ARE DOING, NAME  
01:08:55 18 THE SWITCH. SO YOU ARE ALWAYS GOING TO HAVE TO DO THAT, RIGHT.

01:08:59 19 SO THEN --

01:09:00 20 THE COURT: ON THE CISCO SIDE AS WELL?

01:09:06 21 MR. NELSON: CORRECT.

01:09:07 22 THE COURT: IS THAT CALLED THE PREFIX --

01:09:09 23 MR. NELSON: IT'S TYPICALLY CALLED ARGUMENT.

01:09:11 24 THE COURT: I REMEMBER THE TESTIMONY YESTERDAY, I'M  
01:09:12 25 NOT SURE I REALLY UNDERSTOOD THE DIFFERENCE BETWEEN --

01:09:15 1 MR. NELSON: WELL, IT'S THE INFORMATION THAT THE  
01:09:17 2 CUSTOMER PUTS IN WHICH IS -- ACTUALLY WHAT HAPPENED,  
01:09:19 3 YOUR HONOR, IS THAT INFORMATION IS TAKEN, INPUT INTO THE  
01:09:22 4 SOFTWARE, THE COMMAND ITSELF MAKES A PARTICULAR CALL INTO THE  
01:09:26 5 SOFTWARE ABOUT WHAT FUNCTIONALITY IS GOING TO BE PERFORMED, AND  
01:09:30 6 THEN THE INFORMATION THAT'S INPUT AS THE ARGUMENT WILL BE  
01:09:36 7 PASSED AS PARAMETERS, ESSENTIALLY TO THE SOFTWARE TO OPERATE  
01:09:39 8 ON. SO THAT'S ALWAYS THE CASE.

01:09:41 9 SO WHAT WE ARE RUNNING INTO IS REALLY A FUNDAMENTAL CHANGE  
01:09:44 10 IN THE WAY THIS CASE HAS BEEN LITIGATED FROM THE BEGINNING, AND  
01:09:49 11 THAT I THINK IS PROBLEMATIC AT THIS STAGE.

01:09:52 12 THE COURT: WELL, IT SEEMS TO ME THAT IT IS -- THIS  
01:09:58 13 GETS TO BE A VERY DIFFICULT ISSUE TO ADMIT INTO EVIDENCE. A  
01:10:04 14 DOCUMENT THAT TELLS THE JURY, IN BLACK AND WHITE, THAT THE  
01:10:08 15 ARISTA SYSTEM HAS A COMMAND THAT IS AAA ACCOUNTING.

01:10:14 16 MR. NELSON: UH-HUH.

01:10:15 17 THE COURT: AND CISCO HAS THE SAME ONE.

01:10:17 18 IT'S -- AND WHAT MR. WONG IS TELLING ME IS THAT'S A  
01:10:24 19 MISREPRESENTATION OF THE ARISTA SYSTEM, BUT NOW THEY HAVE TO  
01:10:27 20 REBUT IT AS OPPOSED TO NEVER LETTING THIS IT IN.

01:10:30 21 SO THAT WOULD BE A VERY DIFFERENT THING IF I WERE TO --  
01:10:33 22 AND ALLOWING THIS AS A SUMMARY CHART THAT'S NOT ADMITTED, IS A  
01:10:37 23 DIFFERENT MATTER.

01:10:37 24 MR. WONG: RIGHT. THEY CAN USE THIS AS A  
01:10:40 25 DEMONSTRATIVE AND THAT'S FINE. THEY CAN MAKE THESE ARGUMENTS

01:10:42 1 BUT THERE'S CLEARLY A DISPUTE --

01:10:45 2 THE COURT: I'M VERY CONCERNED THAT YOU DON'T HAVE  
01:10:46 3 THE BASE -- THE FOUNDATION TO ADMIT THIS.

01:10:48 4 AND YOU ARE GIVING ME SOURCE CODE HERE, I MEAN, YOU KNOW,  
01:10:51 5 ALL OF THE UNDERLYING EXHIBITS HAVE TO BE SEPARATELY  
01:10:56 6 ADMISSIBLE, SOURCE CODE CERTAINLY WOULD QUALIFY.

01:10:58 7 MR. NELSON: RIGHT.

01:10:58 8 THE COURT: I CAN'T EVALUATE THE SOURCE CODE.

01:10:59 9 AND SO I MEAN, THIS IS ONE OF THOSE DIFFICULT THINGS THAT  
01:11:03 10 I'M TRYING TO UNDERSTAND WHAT THE ARISTA SYSTEM ACTUALLY HAS  
01:11:11 11 WHICH COULD BE WHAT YOU'VE REPRESENTED OR IT COULD BE SOMETHING  
01:11:14 12 ELSE.

01:11:15 13 MR. NELSON: SO YOUR HONOR, THIS IS THE FACE PAGE  
01:11:18 14 FROM THEIR MANUAL, THE TABLE OF CONTENTS.

01:11:21 15 THE COURT: THIS IS THE ARISTA MANUAL.

01:11:22 16 MR. NELSON: SO WE CAN DO THAT AS WELL, THAT'S FINE,  
01:11:24 17 AND PUT ALL THE MANUALS IN, WHICH SHOWS THE COMMANDS THAT ARE  
01:11:28 18 PRESENT IN THOSE.

01:11:29 19 THE COURT: OKAY.

01:11:29 20 MR. NELSON: AND THAT'S THE WAY THE COMMANDS ARE  
01:11:31 21 LISTED. THAT'S THE WAY EVERYBODY IN THE INDUSTRY LISTS THE  
01:11:34 22 COMMANDS AND THAT'S WHAT DR. BLACK DID WHEN HE TRIED TO GO  
01:11:38 23 THROUGH WITH THE MANUALS AND COUNSEL PULLED OFF THE INTERNET,  
01:11:41 24 WHICH IS A SEPARATE ISSUE AND A SEPARATE PROBLEM, BUT --

01:11:44 25 THE COURT: SO THE ENGINEER TYPES IN A COMMAND --

01:11:46 1 MR. NELSON: CORRECT.

01:11:47 2 THE COURT: -- AND GETS A COMMAND RESPONSE.

01:11:50 3 MR. NELSON: WELL, YOU WILL PUT IN AN ARGUMENT, WITH  
01:11:53 4 RESPECT TO CERTAIN COMMANDS AS WELL.

01:11:55 5 THE COURT: REMIND ME WHAT AN ARGUMENT IS. I'M  
01:11:57 6 SORRY.

01:11:57 7 MR. NELSON: AN ARGUMENT WILL BE INFORMATION THAT'S  
01:11:59 8 REQUIRED TO BE INPUT TO THE CUSTOMER IN ORDER TO PASS  
01:12:02 9 PARAMETERS TO THE PROGRAM. THERE'S CERTAIN PARAMETERS --

01:12:04 10 THE COURT: SO IT'S A COMMAND PLUS AN ARGUMENT?

01:12:06 11 MR. NELSON: CORRECT.

01:12:07 12 THE COURT: SO IT'S -- WE WILL JUST STICK WITH OUR  
01:12:09 13 FIRST ONE HERE, AAA ACCOUNTING, FILL IN THE BLANK.

01:12:14 14 MR. NELSON: THE -- GOING BACK TO MY FORM EXAMPLE,  
01:12:19 15 THERE WOULD BE A BLANK IN THE FORM THERE FOR THE CUSTOMER TO  
01:12:23 16 INPUT SOMETHING.

01:12:24 17 THE COURT: SURE. AND THAT, I THINK THE CASE LAW  
01:12:26 18 TAKES CARE OF, THAT THAT IS GOING TO BE ALLOWED, THAT YOU COULD  
01:12:29 19 MAKE THOSE REPRESENTATIONS.

01:12:31 20 CISCO IS NOT THE SAME WAY?

01:12:32 21 MR. NELSON: CISCO WILL PUT IN THE SAME INFORMATION  
01:12:34 22 AS WELL.

01:12:35 23 THE COURT: SO YOU HAVE AN ARGUMENT IN YOURS AS WELL?

01:12:37 24 MR. NELSON: CORRECT. CORRECT.

01:12:37 25 AND THOSE MAY BE SLIGHTLY DIFFERENT IN FORMAT, THAT'S A

01:12:40 1 DIFFERENT ISSUE BECAUSE WE ARE NOT ASSERTING THAT.

01:12:43 2 THE COURT: OH.

01:12:43 3 MR. WONG: THAT'S THE PROBLEM, YOUR HONOR.

01:12:45 4 MR. VAN NEST: THAT'S THE POINT.

01:12:46 5 MR. WONG: AND THE OTHER SUMMARY EXHIBITS WE ALLOWED,  
01:12:48 6 YOUR HONOR, THEY ACTUALLY INCLUDE SURROUNDING TEXT THAT SHOWS  
01:12:51 7 IT'S DIFFERENT FOR BOTH CISCO AND ARISTA.

01:12:53 8 THEIR HELP DESCRIPTIONS, SIDE-BY-SIDE STUFF, THE REASON  
01:12:55 9 WHY WE AGREED TO SOME OF THE FORM OF THAT IS BECAUSE SOME OF  
01:12:58 10 THOSE HELP DESCRIPTIONS ARE DIFFERENT AND THEY INCLUDED THE  
01:13:01 11 FULL THING.

01:13:01 12 THESE COMMAND EXPRESSIONS ARE NOT THE FULL COMMANDS. AND  
01:13:04 13 WHEN YOU LOOK AT THE FULL COMMANDS, THEY ARE DIFFERENT. NOW  
01:13:07 14 THEY CAN MAKE AN ARGUMENT ABOUT THIS --

01:13:08 15 THE COURT: SO TO PUT AAA ACCOUNTING, IT'S  
01:13:12 16 INCOMPLETE, AND NEITHER SYSTEM IS GOING TO DO ANYTHING WITH IT.

01:13:15 17 MR. WONG: BOTH OF THOSE ARE CORRECT.

01:13:16 18 MR. NELSON: THOSE ARE THE FULL COMMANDS, YOUR HONOR.

01:13:19 19 THE COURT: THEN WHY ISN'T THAT REPRESENTED HERE TO  
01:13:21 20 SHOW THE JURY THAT THIS IS INCOMPLETE, THAT THIS IS JUST THE  
01:13:24 21 FIRST PART?

01:13:26 22 I MEAN, THAT SEEMS TO BE, WHEN YOU -- SORRY, TWO YEARS AND  
01:13:31 23 I GOT THIS -- I STILL DIDN'T UNDERSTAND THIS, MAYBE THE JURY IS  
01:13:35 24 WAY SMARTER THAN I AM, THIS IS NOT A COMPLETE COMMAND. I GET  
01:13:39 25 NOTHING FOR THIS --

01:13:41 1 MR. NELSON: IT IS A COMPLETE COMMAND. IT'S THE  
01:13:42 2 COMPLETE COMMAND, IT DOESN'T INCLUDE THE ARGUMENT, RIGHT. THAT  
01:13:48 3 WHICH ARE THE INPUTS TO THE COMMAND. AND THAT'S THE WAY THE  
01:13:50 4 INDUSTRY UNDERSTANDS THEM.

01:13:51 5 NOW I CAN PUT THE MANUALS IN, THAT'S FINE, IF THAT'S WHAT  
01:13:54 6 YOU WANT ME TO DO, BUT IT NEEDS TO GO BOTH WAYS. SO ALL OF  
01:14:00 7 DR. BLACK'S TESTIMONY ON INDUSTRY STANDARD IS GONE BECAUSE HE  
01:14:03 8 DOES EXACTLY THE SAME THING. HE LEAVES OFF THE ARGUMENTS, AND  
01:14:07 9 OBVIOUSLY THAT'S THE IMPORTANT PART, RIGHT?

01:14:09 10 THE ARGUMENT I GOT YESTERDAY WAS, WELL, IT'S THE SAME WAY  
01:14:13 11 YOU REPRESENT IT, BUT THAT DOESN'T MAKE ANY DIFFERENCE, OF  
01:14:15 12 COURSE, BECAUSE IF I'M BEING FORCED TO INCLUDE THE IDEA THAT  
01:14:19 13 THERE'S AN ARGUMENT THERE, THEN WHETHER SOMEBODY IS USING THAT  
01:14:22 14 SAME THING, WOULD ALSO HAVE TO INCLUDE THE ARGUMENT.

01:14:25 15 THE COURT: SO IN FACT, IS THIS MORE LIKE WHEN THE  
01:14:28 16 CASES TALK ABOUT A FRAGMENT? I THOUGHT THESE WERE FRAGMENTS TO  
01:14:31 17 BEGIN WITH, BUT THIS IS A FRAGMENT OF A FRAGMENT.

01:14:34 18 MR. VAN NEST: MAYBE, YOUR HONOR.

01:14:35 19 BUT WITH ALL DUE RESPECT, THIS IS A COMPLETE RED HERRING,  
01:14:38 20 AND COUNSEL KNOWS.

01:14:40 21 I TOLD HIM LAST NIGHT, AND I'M WILLING TO LIVE WITH IT,  
01:14:43 22 THAT WHATEVER HAPPENS HERE WILL APPLY TO BLACK TOO. SO FINE.

01:14:47 23 WHAT I'M SAYING IS, UNLIKE THE SUMMARIES WE AGREED TO  
01:14:51 24 WHICH SHOW ACTUAL TEXT AND ACTUAL TEXT ON BOTH SIDES, ACTUAL  
01:14:57 25 TEXT THAT APPEARS IN A MANUAL OR A HELPDESC OR SOMEWHERE, THESE

01:15:02 1 DON'T. THESE ARE INACCURATE, THEY ARE INCOMPLETE, THEY ARE  
01:15:06 2 INCORRECT BECAUSE THE FORMATS FOR CISCO AND ARISTA ARE  
01:15:08 3 DIFFERENT WHEN YOU LOOK AT THE COMPLETE COMMANDS.

01:15:10 4 SO WHAT I TOLD COUNSEL, AND HE KNOWS THIS, IS I AGREE WITH  
01:15:13 5 YOU, IF YOURS DO NOT COME IN, WHICH THEY SHOULDN'T, THEN WE  
01:15:18 6 WILL USE BLACK'S AS A DEMONSTRATIVE BUT NOT PUT IT IN.

01:15:22 7 AND I SAID TO COUNSEL, THIS IS A DEMONSTRATIVE, YOU CAN  
01:15:26 8 USE IT AS A DEMONSTRATIVE, YOUR GUY CAN TESTIFY. THEY NOW HAVE  
01:15:30 9 EXHIBIT 1, WHICH IS THEIR COMPLETE LIST.

01:15:32 10 THE COURT: SURE.

01:15:33 11 MR. VAN NEST: AND LET'S GO.

01:15:34 12 I MEAN, TO ME THIS IS HIGHLY MISLEADING AND THEY ARE  
01:15:37 13 TRYING TO PULL ONE OVER ON ALL OF US BECAUSE THEY KNOW THIS  
01:15:41 14 ISN'T THE COMPLETE COMMAND. THIS GETS YOU NOTHING WHEN YOU  
01:15:43 15 TYPE IT IN, AND THAT'S WHAT WE'RE TALKING ABOUT.

01:15:46 16 SORRY.

01:15:46 17 MR. NELSON: THIS IS WHY THEY ADMITTED IN THE ANSWER  
01:15:48 18 THAT THEY IMPLEMENTED THESE. THEY WERE ALL THERE, THAT'S THE  
01:15:51 19 EXHIBIT.

01:15:54 20 I MEAN, I UNDERSTAND THAT LAWYERS GO ALONG AND WANT TO  
01:15:57 21 MAKE DIFFERENT ARGUMENTS -- AND CERTAINLY THEY CAN. I  
01:16:01 22 UNDERSTAND THAT YOU CAN MAKE THAT ARGUMENT, BUT --

01:16:03 23 MR. VAN NEST: THEY'VE GOT THE ANSWER IN EVIDENCE  
01:16:05 24 NOW. I STIPULATED TO THE EVIDENCE, I STIPULATED. THEY CAN PUT  
01:16:08 25 THAT IN. I DON'T KNOW WHY THAT HELPS THEM. IT DOESN'T.



01:16:12 1 THAT'S WHY THEY'VE GOT NOW, THEY WILL HAVE EXHIBIT 1 IN FRONT  
01:16:15 2 OF THE JURY WHICH IS THEIR LIST, AND THEY WILL HAVE OUR  
01:16:18 3 ADMISSION AND THEN OUR DENIAL, AND THEY CAN ARGUE FROM THAT AND  
01:16:21 4 SO CAN I.

01:16:21 5 AND THAT'S EXACTLY THE WAY IT SHOULD BE.

01:16:23 6 THE COURT: BUT THE LIST IS YOUR --

01:16:26 7 MR. VAN NEST: IT'S THEIR LIST FROM THEIR COMPLAINT.

01:16:28 8 THE COURT: YOUR LIST OF WHAT WAS COPIED.

01:16:31 9 MR. NELSON: CORRECT, YOUR HONOR.

01:16:31 10 MR. VAN NEST: RIGHT. RIGHT.

01:16:33 11 THEY'VE GOT THAT. THEY WILL HAVE THAT IN FRONT OF THE  
01:16:35 12 JURY. BUT THIS SO CALLED "SUMMARY" IS NOT A SUMMARY, IT  
01:16:38 13 BASICALLY IS A DIRECTION THAT THERE'S A COMPLETE COPY ON EVERY  
01:16:44 14 SINGLE ONE, AND THAT'S NOT ACCURATE.

01:16:47 15 SO AGAIN, I DID SAY IT'S A DEMONSTRATIVE --

01:16:49 16 THE COURT: SO I HEAR THAT THIS IS ARGUMENTATIVE  
01:16:53 17 BECAUSE OF THIS DIFFERENCE. AND YOU KNOW --

01:17:00 18 MR. NELSON: OKAY. I UNDERSTAND, YOUR HONOR.

01:17:01 19 AND WE CAN PUT THE MANUALS IN AND THEY CAN CROSS-EXAMINE  
01:17:06 20 THEM, OR WHATEVER THEY WISH, ON THAT ISSUE. IT WILL TAKE A  
01:17:10 21 LITTLE WHILE, BUT I UNDERSTAND THAT, THAT'S NOT A PROBLEM. AND  
01:17:12 22 HE CAN DO THAT.

01:17:14 23 I DON'T INTEND TO HAVE HIM GO THROUGH EVERY SINGLE MANUAL  
01:17:17 24 AND POINT OUT WHERE ALL 506 COMMANDS ARE, I THINK THAT WOULD  
01:17:23 25 BE -- WE KNOW WHICH ONES ARE AT ISSUE FROM THE LIST.

01:17:26 1 THE COURT: OKAY.

01:17:27 2 MR. NELSON: SO I DON'T KNOW THAT THAT'S A PROBLEM.

01:17:29 3 IT IS -- I JUST WANT TO PUT ON YOUR HONOR'S RADAR THAT I  
01:17:35 4 WILL BE OBJECTING WHEN THE DR. BLACK THINGS COME UP FOR THE  
01:17:39 5 SAME REASON --

01:17:40 6 THE COURT: MR. VAN NEST JUST SAID IT'S GOING TO BE  
01:17:42 7 EQUAL. SO IF YOURS IS NOT ADMISSIBLE, AS ONLY A DEMONSTRATIVE,  
01:17:46 8 THEN HIS WILL BE AS WELL.

01:17:47 9 MR. NELSON: ACTUALLY, YOUR HONOR, I WOULD SUGGEST  
01:17:49 10 THIS ISN'T FOR THE REASONS YOU SUGGEST, SHOULDN'T EVEN BE A  
01:17:52 11 DEMONSTRATIVE, BECAUSE IT WOULD BE ARGUMENTATIVE, RIGHT. THAT  
01:17:55 12 WOULD BE --

01:17:56 13 MR. VAN NEST: IF HE DOESN'T WANT TO USE IT, THAT'S  
01:17:59 14 FINE.

01:17:59 15 MR. NELSON: I WILL OBJECT TO THEIR DEMONSTRATIVE ON  
01:18:01 16 THAT BASIS. IF IT'S ARGUMENTATIVE FOR EVERYONE, I DON'T THINK  
01:18:06 17 USING IT AS A DEMONSTRATIVE CURES THAT ISSUE, YOUR HONOR.

01:18:10 18 MR. VAN NEST: WE WILL AGREE TO BE TREATED THE SAME,  
01:18:11 19 YOUR HONOR.

01:18:12 20 WHEN WE GET TO DR. BLACK, WE CAN DEAL WITH DR. BLACK. BUT  
01:18:17 21 HE'S GOT SOME THAT ARE IN A DIFFERENT FORMAT, AND I'M SURE THEY  
01:18:20 22 WILL OBJECT TO THAT.

01:18:21 23 THE COURT: WHAT I'M DECIDING NOW IS THAT 4796 IS NOT  
01:18:24 24 A PROPER SUMMARY DOCUMENT AND IS NOT ADMISSIBLE BECAUSE IT DOES  
01:18:27 25 NOT APPEAR TO ACCURATELY REFLECT A COMMAND LINE, A MULTIWORD

01:18:32 1 COMMAND EXPRESSION THAT IS OPERABLE IN THE ARISTA SYSTEM; IS  
01:18:38 2 THAT CORRECT, MR. VAN NEST?

01:18:39 3 MR. VAN NEST: YES.

01:18:41 4 MR. NELSON: THAT'S THE CONTENTION.

01:18:43 5 THE COURT: THAT'S YOUR CONTENTION, AND I'M SATISFIED  
01:18:45 6 THAT IS THE PROPER OBJECTION.

01:18:46 7 MR. NELSON: OKAY. SO I WILL GO AHEAD AND PUT THE  
01:18:47 8 MANUALS IN THEN, YOUR HONOR.

01:18:49 9 THE COURT: OKAY. ALL RIGHT.

01:18:51 10 MR. VAN NEST: YOUR HONOR, I THINK THE OTHER ISSUES  
01:18:52 11 COULD BE DEALT WITH IN THE MORNING. WELL, DR. JAFFE WILL NOT  
01:18:58 12 GET ON TODAY.

01:18:58 13 MR. NELSON: NO, HE WON'T, YOUR HONOR, PARTICULARLY  
01:19:01 14 WITH THE MANUALS.

01:19:02 15 MR. VAN NEST: THEN THE ROG RESPONSE, I THINK YOU  
01:19:04 16 WANT TO DO IN REBUTTAL OR LATER, BUT NOT TODAY.

01:19:08 17 SO WE ARE FINE WITH THOSE, YOUR HONOR. THEY WON'T BE  
01:19:10 18 COMING UP WITH WITNESSES TODAY.

01:19:11 19 MR. NELSON: YOUR HONOR.

01:19:12 20 THE COURT: THAT SOUNDS FINE.

01:19:14 21 MR. NELSON: THIS -- WOULD YOU LIKE TO READ THIS JUST  
01:19:18 22 TO MAKE SURE YOU'RE OKAY WITH IT.

01:19:20 23 THE COURT: WHAT IS THAT?

01:19:21 24 MR. NELSON: THIS IS THE STIPULATION.

01:19:23 25 MR. VAN NEST: ON THE ANSWER THAT WE REACHED.

01:19:25 1 THE COURT: OH, YES, I WOULD LIKE TO SEE THAT.

01:19:30 2 MR. VAN NEST: IT'S IN MR. SANTACANA'S HANDWRITING.

01:20:07 3 THE COURT: AND SO IT'S THE FIRST TWO PARAGRAPHS,  
01:20:11 4 SKIP THE CROSS OUT, AND THEN INCLUDE "EXHIBIT 1 CONTAINS,"  
01:20:13 5 THAT'S TO BE READ AS WELL?

01:20:15 6 MR. VAN NEST: RIGHT.

01:20:15 7 MR. NELSON: CORRECT. AND WE WILL MARK EXHIBIT 1.

01:20:17 8 PERHAPS WHAT I SHOULD SUGGEST SOMETHING, YOUR HONOR. SO  
01:20:21 9 WE SHOULD MAKE IT CLEAR THAT IT WAS EXHIBIT 1 TO THE COMPLAINT,  
01:20:25 10 BUT WE SHOULD -- IT SHOULD BE REFERENCED AS A TRIAL EXHIBIT FOR  
01:20:28 11 THE RECORD. AND WE SHOULD INCLUDE THAT SO THAT WE CAN  
01:20:32 12 CROSS-REFERENCE.

01:20:32 13 IT WAS EXHIBIT 1 IN THE COMPLAINT, BUT FOR PURPOSES OF THE  
01:20:38 14 TRIAL IT'S --

01:20:38 15 THE COURT: YOU WILL MARK IT AS A TRIAL EXHIBIT?

01:20:41 16 MR. VAN NEST: WE WILL SAY IT'S TRIAL EXHIBIT SUCH  
01:20:44 17 AND SUCH.

01:20:44 18 THE COURT: OKAY.

01:20:45 19 MR. VAN NEST: AND EXHIBIT 1 IS THE ONE YOU HANDED UP  
01:20:47 20 TO. BUT YOUR HONOR, IF YOU WOULDN'T MIND HANDING THAT BACK,  
01:20:50 21 IT'S OUR ONLY COPY. NO, I MEAN THE STIPULATION.

01:20:53 22 THE COURT: I THINK I'VE GIVEN YOU BACK EVERYTHING.

01:20:56 23 MR. VAN NEST: THE STIPULATION, YOUR HONOR.

01:20:57 24 MR. NELSON: I HAVE TO READ IT.

01:20:58 25 THE COURT: SO WHEN AM I READING THAT?

01:21:01 1 MR. VAN NEST: NO, HE'S GOING TO READ IT.

01:21:03 2 THE COURT: YOU ARE GOING TO READ IT?

01:21:04 3 MR. NELSON: I'M GOING TO TRY.

01:21:05 4 MR. VAN NEST: UNLESS YOU WANT TO READ IT. YOU CAN

01:21:06 5 READ IT.

01:21:07 6 THE COURT: I DON'T THINK THERE'S ANY RULE ON IT.

01:21:09 7 SURE. YOU CAN READ IT.

01:21:11 8 MR. VAN NEST: IT'S UP TO HIM.

01:21:12 9 MR. NELSON: IT WILL BE SLOW AND THERE MIGHT BE SOME

01:21:14 10 MISTAKES.

01:21:15 11 THE COURT: I WILL LET YOU MAKE A MISTAKE, NOT ME.

01:21:18 12 MR. NELSON: OKAY.

01:21:18 13 I WILL ADD IN THE LINE ABOUT -- ONCE WE GET THE TRIAL

01:21:21 14 EXHIBIT, I WILL ADD A LINE AT THE END THAT SAYS, EXHIBIT 1 TO

01:21:24 15 THE COMPLAINT THAT'S BEEN MARKED AS TRIAL EXHIBIT XXX, FOR

01:21:29 16 EVIDENCE.

01:21:30 17 THE COURT: OKAY.

01:21:30 18 MR. NELSON: IS THAT OKAY?

01:21:32 19 THE COURT: YES, IT IS.

01:21:33 20 MR. NELSON: OKAY.

01:21:36 21 THE COURT: AND JUST MY LAST THING, THERE WERE

01:21:38 22 OBJECTIONS TO THE SWEENEY DEPOSITION, YOU DON'T NEED THAT NOW

01:21:41 23 EITHER?

01:21:42 24 MR. VAN NEST: I DON'T THINK SO.

01:21:43 25 THE COURT: OKAY.

01:21:44 1 MR. VAN NEST: HAVE YOU RULED ON THEM, YOUR HONOR?

01:21:46 2 THE COURT: I'M PREPARED TO RULE ON THEM BOTH, AND IT  
01:21:49 3 WILL TAKE ONE MOMENT.

01:21:50 4 THERE WAS AN OBJECTION TO -- OF THE SWEENEY DEPOSITION,  
01:21:54 5 THERE WAS AN OBJECTION TO PAGE 121, LINE 5, THROUGH 9. AND I  
01:22:03 6 WILL DENY THAT OBJECTION.

01:22:04 7 AND THERE WAS AN OBJECTION TO PAGE 123, LINE 17  
01:22:12 8 THROUGH 25, AND I WILL DENY THAT ONE AS WELL.

01:22:15 9 MR. VAN NEST: SO THOSE TWO OBJECTIONS ARE OVERRULED?

01:22:17 10 THE COURT: SO THEY ARE OVERRULED. SORRY, I'M USING  
01:22:20 11 THE WRONG LANGUAGE.

01:22:21 12 MR. VAN NEST: AND THAT'S A DEPOSITION VIDEO OF THE  
01:22:22 13 PLAINTIFF AND THEY CAN PLAY IT, THEY WILL LET US KNOW WHEN THEY  
01:22:26 14 WANT TO PLAY IT.

01:22:27 15 MR. PAK: THANK YOU, YOUR HONOR.

01:22:28 16 MR. VAN NEST: HE WILL ALSO BE A LIVE WITNESS, IN ALL  
01:22:30 17 LIKELIHOOD, AS WELL.

01:22:31 18 THE COURT: OKAY. CAN WE BRING IN THE JURY?

01:22:40 19 MR. VAN NEST: I BELIEVE SO. GENTLEMAN, CAN WE BRING  
01:22:44 20 IN THE JURY?

01:22:44 21 MR. NELSON: YES.

01:22:45 22 THE COURT: ALL RIGHT.

01:22:46 23 (JURY IN AT 1:22 P.M.)

01:24:12 24 THE COURT: WE ARE BACK ON THE RECORD IN CISCO VERSUS  
01:24:14 25 ARISTA.

01:24:15 1 GOOD AFTERNOON, EVERYONE. I'M SORRY TO KEEP YOU WAITING,  
01:24:18 2 I JUST HAD A FEW MORE MATTERS TO WORK WITH THE ATTORNEYS.

01:24:25 3 WE ARE GOING TO GO BACK TO WHERE WE LEFT OFF, IF I CAN  
01:24:29 4 REMEMBER WHERE THAT WAS.

01:24:30 5 MR. PAK: WE HAVE MORE WITNESSES TO PUT ON,  
01:24:31 6 YOUR HONOR.

01:24:32 7 THE COURT: ARE WE READY TO CALL THE NEXT WITNESS?

01:24:34 8 MR. PAK: YES.

01:24:35 9 THE COURT: OH, GOOD, I COULDN'T REMEMBER IF WE HAD  
01:24:37 10 SOMEONE ON THE STAND.

01:24:38 11 GOOD. MR. PAK, WHO IS YOUR NEXT WITNESS?

01:24:41 12 MR. PAK: IT'S GOING TO BE MR. LANG, AND JORDAN JAFFE  
01:24:45 13 WILL BE CONDUCTING THE EXAMINATION.

01:24:47 14 THE COURT: ALL RIGHT.

01:24:47 15 MR. LANG, IF YOU WOULD COME FORWARD TO THE WITNESS STAND,  
01:24:52 16 PLEASE AND STAND TO BE SWORN.

01:24:54 17 AND GOOD AFTERNOON, MR. JAFFE.

01:24:57 18 MR. JAFFE: GOOD AFTERNOON.

01:25:00 19 **(PLAINTIFF'S WITNESS, DAN LANG, WAS SWORN.)**

01:25:03 20 THE WITNESS: YES.

01:25:04 21 THE CLERK: THANK YOU.

01:25:11 22 AND IF YOU WOULD, PLEASE STATE YOUR NAME AND SPELL YOUR  
01:25:13 23 LAST NAME FOR THE RECORD.

01:25:15 24 THE WITNESS: DAN LANG. AND IT'S SPELLED L-A-N-G.

01:25:15 25 **DIRECT EXAMINATION**

01:25:22 1

BY MR. JAFFE:

01:25:22 2

Q. GOOD AFTERNOON, MR. LANG.

01:25:24 3

A. GOOD AFTERNOON.

01:25:25 4

Q. COULD YOU PLEASE INTRODUCE YOURSELF TO THE JURY.

01:25:26 5

A. SURE. I'M DAN LANG, AND I LIVE NEARBY HERE IN SARATOGA,

01:25:31 6

CALIFORNIA. I HAVE A SON WHO IS TEN, AND A DAUGHTER WHO IS 13,

01:25:36 7

AND I HAVE BEEN MARRIED FOR 15 YEARS.

01:25:39 8

Q. HOW LONG HAVE YOU LIVED IN THE BAY AREA?

01:25:41 9

A. I'VE LIVED HERE FOR 30 YEARS SINCE COMING OUT TO GO TO

01:25:44 10

GRADUATE SCHOOL AT STANFORD. ALL BUT FOR THREE YEARS, I WORKED

01:25:48 11

IN SAN DIEGO BEFORE GOING TO LAW SCHOOL.

01:25:51 12

Q. AND WHERE DO YOU WORK NOW?

01:25:52 13

A. I WORK AT CISCO SYSTEMS UP UNTIL THIS LAWSUIT.

01:25:57 14

Q. AND WHAT'S YOUR TITLE AT CISCO?

01:25:59 15

A. I'M VICE PRESIDENT OF INTELLECTUAL PROPERTY AND DEPUTY

01:26:02 16

GENERAL COUNSEL WITHIN THE LEGAL DEPARTMENT.

01:26:05 17

Q. AND WHAT DOES THE VICE PRESIDENT OF INTELLECTUAL PROPERTY

01:26:08 18

DO AT CISCO?

01:26:09 19

A. SO I LEAD A TEAM OF ABOUT 30 PEOPLE AND WE WORK ON A

01:26:14 20

NUMBER OF THINGS. WE RUN THE COMPANY'S PATENT FILING PROGRAM.

01:26:27 21

WE HAVE ABOUT 20,000 PATENTS AROUND THE WORLD.

01:26:30 22

WE WORK ON INTELLECTUAL PROPERTY LICENSING. WE WORK ON

01:26:34 23

INTELLECTUAL PROPERTY DISPUTES, OTHER THAN LITIGATIONS. WE

01:26:38 24

WORK ON ISSUES CONNECTED TO PATENTS AND STANDARDS, AND I ALSO

01:26:45 25

ADVOCATE FOR ADDITIONS TO PATENT LAW TO MAKE THEM MORE



01:26:49 1

SENSIBLE.

01:26:49 2

Q. WHEN DID YOU JOIN CISCO?

01:26:51 3

A. I JOINED IN 2004.

01:26:53 4

Q. AND WHY DID YOU JOIN CISCO?

01:26:56 5

A. I HAD BEEN WORKING AS AN OUTSIDE PATENT LAWYER FOR CISCO

01:27:02 6

FOR SOME TIME BEFORE THAT. I REALLY ENJOYED MY INTERACTIONS

01:27:05 7

WITH THE COMPANY. I ENJOYED WORKING WITH THE IN-HOUSE LEGAL

01:27:08 8

DEPARTMENT WITH THE ENGINEERS, I LIKE THE TECHNOLOGY, I LIKE

01:27:12 9

THE MISSION OF THE COMPANY OF HELPING TO DEVELOP THE INTERNET,

01:27:15 10

AND I HAD A FANTASTIC OPPORTUNITY TO COME AND BE, WHAT WAS THE,

01:27:19 11

THIRD INTELLECTUAL PROPERTY LAWYER AT THE COMPANY.

01:27:21 12

Q. AND YOU HAVE BEEN AT CISCO OVER A DECADE NOW. WHY HAVE

01:27:25 13

YOU STAYED AT CISCO?

01:27:26 14

A. WELL, ALL OF THOSE REASONS HAVE CONTINUED TO BE TRUE, IT'S

01:27:29 15

BEEN A GREAT PLACE TO BE, I'VE LEARNED A TREMENDOUS AMOUNT,

01:27:34 16

I'VE HAD GREAT MANAGERS AND I'VE CONTINUED TO ENJOY WORKING

01:27:37 17

WITH THE PEOPLE THERE.

01:27:37 18

I ENJOY THE SENSE OF FAMILY, THE CULTURE, AND REALLY STILL

01:27:41 19

APPRECIATE THE MISSION OF THE COMPANY AND DEVELOPING INTERNET

01:27:45 20

TECHNOLOGY.

01:27:45 21

Q. GREAT. SO TELL ME A LITTLE BIT MORE ABOUT YOUR ROLE AT

01:27:51 22

THE COMPANY. WHAT IS YOUR ROLE OF INTELLECTUAL PROPERTY AT

01:27:54 23

CISCO?

01:27:54 24

A. SO IT'S A VERY IMPORTANT ROLE. WE SPEND, AT CISCO, ABOUT

01:27:58 25

\$6 BILLION A YEAR ANNUALLY ON RESEARCH AND DEVELOPMENT. WE

01:28:02 1 HAVE OVER 20,000 ENGINEERS WE EMPLOY. INTELLECTUAL PROPERTY IS  
01:28:06 2 THE WAY WE PROTECT THAT, WITH OUR PATENTS AND COPYRIGHTS.

01:28:09 3 Q. HOW MANY PATENTS AND REGISTERED COPYRIGHTS DOES CISCO  
01:28:13 4 HAVE?

01:28:13 5 A. SO WE HAVE 14,000 PATENTS IN THE U.S. 20,000 AROUND THE  
01:28:18 6 WORLD. WE HAVE 26 REGISTERED COPYRIGHTS ON VARIOUS KINDS OF  
01:28:24 7 OPERATING SYSTEMS THAT WE HAVE.

01:28:25 8 Q. CAN YOU PROVIDE SOME EXAMPLES OF THE TYPES OF INNOVATIONS  
01:28:29 9 THAT CISCO HAS PATENTED?

01:28:30 10 A. SURE. SO WE'VE PATENTED A TREMENDOUS AMOUNT IN THE  
01:28:36 11 NETWORKING AREA, BEGINNING WITH FUNDAMENTALS OF ROUTING AND  
01:28:39 12 SWITCHES TECHNOLOGY, BUT CONTINUING ON AS WE'VE ADVANCED THE  
01:28:43 13 TECHNOLOGY THAT'S ENABLED WHAT PEOPLE CALLED THE CLOUD, AND  
01:28:45 14 WE'VE CONTINUED PATENTING OUR ADVANCES OF THE CLOUD TECHNOLOGY.

01:28:49 15 WE HAVE PATENTED SECURITY TECHNOLOGY, COLLABORATION OF  
01:28:54 16 VIDEO, AND LOTS OF DETAILS ABOUT HOW NETWORKING TECHNOLOGY  
01:28:59 17 OPERATES AND IMPROVEMENTS, INCLUDING THINGS LIKE WHAT WE CALL  
01:29:02 18 LOW LATENCY, HOW YOU MOVE INFORMATION THROUGH THE NETWORK VERY  
01:29:06 19 QUICKLY, RELIABILITY, SELF HEALING NETWORKS, EXTENSIBILITY THAT  
01:29:13 20 ALLOWS NETWORKS TO BE PROGRAMMED.

01:29:16 21 Q. GREAT. THANK YOU.

01:29:17 22 I WANT TO TALK A LITTLE BIT ABOUT REGISTERED COPYRIGHTS  
01:29:19 23 THAT ARE AT ISSUE HERE. DOES CISCO HAVE REGISTERED COPYRIGHTS  
01:29:23 24 ON THE USER INTERFACE FOR ITS OPERATING SYSTEM?

01:29:25 25 A. YES. OUR COPYRIGHTS ON OUR OPERATING SYSTEMS INCLUDE THE

01:29:31 1  
01:29:32 2  
01:29:34 3  
01:29:46 4  
01:29:51 5  
01:30:01 6  
01:30:02 7  
01:30:03 8  
01:30:07 9  
01:30:10 10  
01:30:12 11  
01:30:15 12  
01:30:17 13  
01:30:20 14  
01:30:22 15  
01:30:23 16  
01:30:25 17  
01:30:25 18  
01:30:27 19  
01:30:31 20  
01:30:37 21  
01:30:41 22  
01:30:45 23  
01:30:53 24  
01:30:57 25

USER INTERFACE.

Q. AND WHAT OPERATING SYSTEMS ARE THOSE?

A. THOSE ARE IOS, IOS XR, IOS XE, AND NX-OS.

Q. MR. LANG, IF YOU CAN TURN TO EXHIBIT 4791 IN YOUR BINDER, PLEASE. DO YOU RECOGNIZE EXHIBIT 4791?

A. YES, I DO.

Q. WHAT IS IT?

A. SO THESE ARE THE REGISTRATIONS FOR COPYRIGHTS IN OUR OPERATING SYSTEMS, AND THEIR ASSOCIATED USER INTERFACES.

Q. AND ARE THESE KEPT IN YOUR LEGAL DEPARTMENT?

A. YES, THEY ARE KEPT WITHIN THE LEGAL DEPARTMENT WITHIN WHICH I AM A VICE PRESIDENT.

MR. JAFFE: YOUR HONOR, I SEEK TO MOVE EXHIBIT 4791 INTO EVIDENCE.

MR. SILBERT: NO OBJECTION.

THE COURT: IT WILL BE ADMITTED.

(PLAINTIFF'S EXHIBIT 4791 WAS ADMITTED INTO EVIDENCE.)

BY MR. JAFFE:

Q. MR. LANG, CAN YOU EXPLAIN TO THE JURY HOW EXHIBIT 4791 IS ORGANIZED?

A. SURE. IT'S ORGANIZED BY OPERATING SYSTEM. SO THE REGISTRATION FOR VARIOUS VERSIONS OF THE SAME OPERATING SYSTEM ARE GROUPED TOGETHER, IOS, IOS XR, IOS XE, AND NX-OS.

Q. AND AGAIN, FOR THIS EXHIBIT, HOW MANY REGISTERED COPYRIGHTS ARE INCLUDED?

01:30:59 1

A. 26.

01:31:00 2

Q. OKAY. AND YOU'VE MENTIONED FOUR OPERATING SYSTEMS AND 26

01:31:05 3

REGISTERED COPYRIGHTS, WHY ARE THERE 26 COPYRIGHTS FOR FOUR

01:31:08 4

OPERATING SYSTEMS?

01:31:09 5

A. BECAUSE WE'VE COPYRIGHTED INDIVIDUALLY, VARIOUS VERSIONS

01:31:13 6

OF THE SAME OPERATING SYSTEM.

01:31:14 7

Q. AND ARE YOU PERSONALLY FAMILIAR WITH HOW CISCO NUMBERS ITS

01:31:19 8

OPERATING SYSTEM VERSIONS?

01:31:21 9

A. YES. I THINK IT'S PRETTY CONVENTIONAL WITHIN THE SOFTWARE

01:31:24 10

INDUSTRY.

01:31:24 11

Q. SO FOR EXAMPLE, FOR IOS XR, 5.1.X WOULD BE BEFORE 5.2; IS

01:31:32 12

THAT RIGHT?

01:31:32 13

A. RIGHT, RIGHT.

01:31:33 14

AND I THINK THAT'S THE WAY WE DO IT AND IT'S THE WAY LOTS

01:31:36 15

OF PEOPLE DO IS IT. WE ALL HAVE SMARTPHONES WHERE WE ARE

01:31:40 16

CONTINUALLY GETTING NEW UPDATES OF THE OPERATING SYSTEM, IT'S A

01:31:43 17

VERY SIMILAR NUMBERING SCHEME.

01:31:45 18

Q. SO YOU MENTIONED NEW UPDATES IN THE OPERATING SYSTEM.

01:31:47 19

DOES THAT MEAN -- DOES CISCO INCLUDE OLDER MATERIAL FROM OLDER

01:31:52 20

OPERATING SYSTEMS WHEN IT REGISTERS NEW VERSIONS?

01:31:55 21

A. YES, THINGS LIKE THE HELP SCREENS AND THE COMMAND

01:31:58 22

HIERARCHIES ARE SWEEPED ALONG AND INCLUDED IN LATER VERSIONS.

01:32:02 23

Q. SO RETURNING TO THE 26 COPYRIGHT REGISTRATIONS, WHO

01:32:05 24

GRANTED THESE COPYRIGHT REGISTRATIONS TO CISCO?

01:32:08 25

A. SO THEY ARE GRANTED BY THE COPYRIGHT OFFICE, AND THAT'S

01:32:11 1 WITHIN THE LIBRARY OF CONGRESS, THAT'S WHO ISSUES COPYRIGHT  
01:32:13 2 REGISTRATIONS IN OUR COUNTRY.

01:32:15 3 Q. WHO OWNS THE 26 REGISTERED COPYRIGHTS FOR IOS, IOS XR, IOS  
01:32:21 4 XE AND NX-OS?

01:32:22 5 A. MY COMPANY, CISCO SYSTEMS, THE PLAINTIFF IN THIS LAWSUIT.

01:32:25 6 Q. NOW, LOOKING AGAIN AT EXHIBITS 4791, WHICH COPYRIGHT  
01:32:30 7 REGISTRATION IS ON THE FIRST PAGE THAT WE ARE LOOKING AT?

01:32:34 8 A. SO IT'S THE ONE FOR IOS, THAT PARTICULAR OPERATING SYSTEM,  
01:32:39 9 VERSION 11.0.

01:32:41 10 Q. CAN YOU PLEASE EXPLAIN TO THE JURY WHAT SOME OF WHAT WE  
01:32:44 11 ARE SEEING HERE ON THIS FIRST PAGE IS?

01:32:46 12 A. SURE.

01:32:46 13 SO IN THE UPPER LEFT YOU SEE THE OFFICIAL SEAL OF THE  
01:32:50 14 COPYRIGHT OFFICE WITHIN THE LIBRARY OF CONGRESS. YOU SEE AN  
01:32:54 15 OFFICIAL SIGNATURE OF THE REGISTRAR OF COPYRIGHTS, THE PERSON  
01:32:58 16 WHO IS RESPONSIBLE OF THIS PROCESS OF REGISTRATION.

01:33:00 17 AND IN THE UPPER RIGHT YOU SEE A TX NUMBER, IT'S A  
01:33:04 18 REGISTRATION NUMBER THAT THEY ASSIGN. AND THEN BELOW THAT YOU  
01:33:08 19 SEE A DATE OF REGISTRATION. AND THAT'S JUNE 14, 2002, HERE.

01:33:13 20 Q. DO EACH OF THE OTHER REGISTERED COPYRIGHTS INCLUDED IN  
01:33:18 21 EXHIBIT 4791 INCLUDE THE SAME INFORMATION THAT YOU WERE JUST  
01:33:20 22 TALKING ABOUT?

01:33:20 23 A. YES, THEY ARE ALL VERY SIMILAR.

01:33:23 24 Q. OKAY. WHAT DID CISCO SUBMIT TO THE LIBRARY OF CONGRESS  
01:33:26 25 WHEN IT APPLIED FOR THESE REGISTERED COPYRIGHTS?

01:33:28 1 A. WELL, IT'S QUITE A BIT OF MATERIAL. IT'S A COPYRIGHT  
01:33:33 2 APPLICATION, WHICH IS ESSENTIALLY THE KIND OF DOCUMENT YOU ARE  
01:33:35 3 LOOKING AT BUT WITHOUT THE REGISTRATION THAT WAS ADDED TO IT BY  
01:33:38 4 THE COPYRIGHT OFFICE.

01:33:40 5 BUT THEN ALONG WITH IT, WE SEND A LOT OF THINGS. WE SENT  
01:33:45 6 EXCERPTS OF THE SOURCE CODE, WE SENT A LINK THAT THE COPYRIGHT  
01:33:48 7 OFFICE CAN USE TO ACCESS THE ENTIRE SOURCE CODE, IF THEY WISH,  
01:33:51 8 AND WE ALSO SENT LOTS OF DIFFERENT ITEMS OF DOCUMENTATION THAT  
01:33:55 9 COME WITH THE OPERATING SYSTEM THAT WERE WE ARE ALSO  
01:33:58 10 REGISTERING.

01:33:59 11 Q. CAN YOU PLEASE TURN TO EXHIBIT 4803 IN YOUR WITNESS  
01:34:03 12 BINDER.

01:34:03 13 A. SURE.

01:34:04 14 Q. DO YOU RECOGNIZE EXHIBIT 4803?

01:34:10 15 A. YES. THESE ARE THE MATERIALS THEMSELVES THAT WERE SENT TO  
01:34:16 16 THE COPYRIGHT OFFICE, ALONG WITH AN INDEX TO THEM.

01:34:21 17 Q. AND IS THERE A DEPARTMENT AT CISCO THAT MAINTAINS THESE  
01:34:25 18 DOCUMENTS?

01:34:25 19 A. YES. THEY ARE MAINTAINED WITHIN THE LEGAL DEPARTMENT. WE  
01:34:28 20 KEEP TRACK OF WHAT WE'VE SENT AND MAINTAIN COPIES.

01:34:31 21 Q. SO IS EXHIBIT 4803 TRUE AND CORRECT COPIES OF THE  
01:34:35 22 MATERIALS THAT WERE SUBMITTED WITH THE REGISTERED COPYRIGHTS  
01:34:37 23 THAT WE JUST DISCUSSED?

01:34:38 24 A. YES, IT IS.

01:34:39 25 Q. OKAY.

01:34:41 1 MR. JAFFE: YOUR HONOR, I SEEK TO MOVE INTO EVIDENCE  
01:34:43 2 EXHIBIT 4803.

01:34:44 3 MR. SILBERT: NO OBJECTION.

01:34:45 4 THE COURT: IT WILL BE ADMITTED.

01:34:47 5 (PLAINTIFF'S EXHIBIT 4803, WAS ADMITTED INTO EVIDENCE.)

01:34:47 6 BY MR. JAFFE:

01:34:48 7 Q. IF WE CAN SHOW THE FIRST PAGE OF EXHIBIT 4803, MR. FISHER.  
01:34:52 8 THANK YOU.

01:34:53 9 MR. LANG, CAN YOU PLEASE EXPLAIN WHAT WE ARE LOOKING AT  
01:34:55 10 HERE ON EXHIBIT 4803?

01:34:58 11 A. SURE. SO THIS IS THE INDEX THAT TELLS US WHAT'S IN THIS  
01:35:01 12 EXHIBIT THAT THE VARIOUS ITEMS THAT WERE SENT TO THE COPYRIGHT  
01:35:04 13 OFFICE AND WHERE YOU CAN FIND EACH ITEM.

01:35:08 14 FOR EACH OPERATING SYSTEM IN EACH VERSION, THERE'S A TABLE  
01:35:11 15 THAT LISTS THE ITEMS AND GIVES SOME POINTERS FOR FINDING IT.

01:35:15 16 Q. ALL RIGHT. I WANT TO CHANGE TOPICS A LITTLE BIT.

01:35:23 17 HAS CISCO HAD TO PROTECT ITS INNOVATIONS FROM COPYING IN  
01:35:27 18 THE PAST?

01:35:27 19 A. YES, WE HAVE. IN 2003 WE LEARNED THAT THE -- OR HAD  
01:35:33 20 LEARNED THAT HUAWEI, WHICH IS STILL TODAY, A LARGE CHINESE  
01:35:38 21 MAKER OF INTERNET EQUIPMENT, HAD COPIED SOME OF OUR PRODUCTS.

01:35:43 22 IT COPIED THE COMMAND-LINE INTERFACE. THEY HAD COPIED  
01:35:46 23 DOCUMENTATION, THEY ALSO COPIED SOURCE CODE. WE SUED THEM FOR  
01:35:52 24 PATENT INFRINGEMENT AND COPYRIGHT INFRINGEMENT AND WERE  
01:35:53 25 SUCCESSFUL IN STOPPING THEIR INFRINGEMENT.

01:35:55 1 Q. SO YOU MENTIONED THAT CISCO SUED HUAWEI. DID THAT INCLUDE  
01:35:59 2 FILING A COMPLAINT?

01:36:00 3 A. YES.

01:36:01 4 Q. AND WAS THAT COMPLAINT FILED PUBLICLY?

01:36:04 5 A. YES, IT WAS.

01:36:05 6 Q. IF YOU CAN TURN TO EXHIBIT 4424 IN YOUR WITNESS BINDER,  
01:36:12 7 PLEASE?

01:36:20 8 A. I'M THERE.

01:36:21 9 Q. DO YOU RECOGNIZE WHAT WE'RE LOOKING AT IN EXHIBIT 4424?

01:36:24 10 A. YES, IT'S A COMPENDIUM OF MEDIA COVERAGE THAT WE COLLECTED  
01:36:27 11 ON THE DAY OF OUR LAWSUIT.

01:36:29 12 SO WE NORMALLY FOLLOW MEDIA COVERAGE OF OUR COMPANY AND  
01:36:33 13 KEEP TRACK OF IT, AND WE COLLECTED THESE ARTICLES ABOUT THE  
01:36:37 14 LAWSUIT THAT WE FILED ON THAT DAY, AND WE HAVE MAINTAINED THOSE  
01:36:40 15 IN THE LEGAL DEPARTMENT SINCE THEN.

01:36:41 16 Q. AND IS IT CISCO'S PRACTICE TO MAINTAIN OR COLLECT ACCURATE  
01:36:45 17 COPIES OF THE COVERAGE AS THEY APPEAR?

01:36:47 18 A. YES, IT IS.

01:36:50 19 MR. JAFFE: YOUR HONOR, I SEEK TO MOVE EXHIBIT 4424  
01:36:52 20 INTO EVIDENCE, ALTHOUGH NOT FOR THE TRUTH OF THE MATTER  
01:36:55 21 ASSERTED.

01:36:56 22 MR. SILBERT: ON THOSE GROUNDS, NO OBJECTION.

01:36:58 23 THE COURT: ALL RIGHT. I WILL ADMIT IT.

01:37:00 24 LADIES AND GENTLEMEN, WHEN YOU LOOK AT THIS EXHIBIT YOU  
01:37:01 25 WILL SEE THAT IT IS JUST AS DESCRIBED BY MR. LANG, A SERIES OF



01:37:05 1  
01:37:06 2  
01:37:09 3  
01:37:12 4  
01:37:14 5  
01:37:17 6  
01:37:20 7  
01:37:22 8  
01:37:22 9  
01:37:27 10  
01:37:30 11  
01:37:37 12  
01:37:37 13  
01:37:37 14  
01:37:40 15  
01:37:41 16  
01:37:47 17  
01:37:48 18  
01:37:51 19  
01:37:55 20  
01:37:56 21  
01:38:00 22  
01:38:05 23  
01:38:11 24  
01:38:12 25

PRESS REPORTS.

YOU ARE TO CONSIDER THAT THESE ARE PRESS REPORTS, BUT NOT  
THE TRUTH OF ANYTHING THAT'S ACTUALLY REPORTED.

I'M SURE AS YOU READ THE NEWSPAPER, YOU MAKE THOSE  
DECISIONS YOURSELF AS WELL, BUT THIS IS JUST TO SHOW YOU THAT  
THESE WERE REPORTS THAT WERE MADE AND NOTHING ELSE.  
(PLAINTIFF'S EXHIBIT 4424 WAS ADMITTED INTO EVIDENCE.)

MR. JAFFE: THANK YOU.

Q. MR. FISHER, IF WE CAN TURN TO PAGE 5 OF THIS EXHIBIT. AND  
IN PARTICULAR, I WANT TO FOCUS ON THE BOTTOM HALF HERE.

MR. LANG, DO YOU SEE THAT THERE'S AN ARTICLE FROM THE *DOW*  
*JONES NEW SERVICE*?

A. YES.

Q. AND CAN YOU JUST READ THE TITLE OF THAT ARTICLE FOR THE  
JURY?

A. DJ CISCO PATENT SUIT-2. REPORTS TO HUAWEI'S QUIDWAY  
ROUTERS.

Q. OKAY. AND COULD YOU PLEASE JUST READ FOR THE JURY THE  
FIRST SENTENCE OF THE THIRD PARAGRAPH?

A. SURE.

"SPECIFICALLY, CISCO IS CLAIMING THAT HUAWEI COPIED  
PORTIONS OF CISCO'S IOS SOURCE CODE AND COMMAND-LINE INTERFACE  
AND INCLUDED THEM IN HUAWEI'S OPERATING SYSTEM FOR ITS QUIDWAY  
ROUTERS AND SWITCHES."

Q. ALL RIGHT. IF WE CAN TURN TO PAGE 6 OF THIS EXHIBIT.

01:38:18 1 DO YOU SEE AN ARTICLE BY THE *WALL STREET JOURNAL*?

01:38:21 2 A. YES, I DO.

01:38:22 3 Q. OKAY. IF WE CAN NOW TURN TO PAGE 7. CAN YOU PLEASE READ  
01:38:29 4 THE SECOND AND THIRD SENTENCE OF THE THIRD PARAGRAPH TO THE  
01:38:33 5 JURY?

01:38:34 6 A. "THE COPYING WAS SO SLAVISH, CISCO SAID IN ITS COMPLAINT,  
01:38:43 7 THAT HUAWEI'S SOFTWARE CONTAINS THE SAME BUGS OR GLITCHES AS  
01:38:46 8 CISCO'S.

01:38:47 9 CISCO ALSO SAID HUAWEI HAD COPIED PORTIONS OF TECHNICAL  
01:38:52 10 MANUALS IN THE COMMANDS USED TO OPERATE ITS GEAR."

01:38:54 11 Q. SO WE'VE READ ABOUT SOME OF THE NEWS COVERAGE AND THE  
01:38:58 12 FILING OF THE LAWSUIT. WHAT HAPPENED IN THE CASE AGAINST  
01:39:01 13 HUAWEI?

01:39:01 14 A. SO IN THAT CASE THERE WAS A PRELIMINARY INJUNCTION, AND  
01:39:05 15 THE COURT -- AND THE ORDER OF THE COURT WAS TO STOP ITS  
01:39:08 16 INFRINGEMENT.

01:39:09 17 AND IN THE WAKE OF THAT, CISCO AND HUAWEI REACHED AN  
01:39:13 18 AGREEMENT TO SUSPEND OUR LAWSUIT AND WE AGREED TO A PROCESS  
01:39:16 19 WHEREBY HUAWEI WOULD PROPOSE CHANGES TO, AMONG OTHER THINGS,  
01:39:21 20 THOSE COMMAND-LINE INTERFACE AND DOCUMENTATION, AND MADE THOSE  
01:39:27 21 CHANGES ACCEPTABLE TO CISCO TO RESOLVE THE LAWSUIT.

01:39:29 22 Q. CAN YOU PLEASE TURN TO EXHIBIT 4672.

01:39:37 23 A. YES.

01:39:38 24 Q. WHAT IS EXHIBIT 4672?

01:39:41 25 A. SO THIS IS THE AGREEMENT THAT I JUST MENTIONED THAT

01:39:45 1 SUSPENDED THE LAWSUIT BETWEEN HUAWEI AND CISCO FOLLOWING THAT  
01:39:49 2 PRELIMINARY INJUNCTION AND LEAD ULTIMATELY TO THE RESOLUTION OF  
01:39:52 3 THE SUIT.  
01:39:52 4 Q. IS THIS A CONFIDENTIAL AGREEMENT?  
01:39:55 5 A. YES, IT IS, IT'S MARKED AS SUCH.  
01:39:57 6 Q. AND IS THIS AGREEMENT MAINTAINED IN THE LEGAL DEPARTMENT  
01:40:00 7 OR SOMEWHERE ELSE?  
01:40:00 8 A. IT'S MAINTAINED WITHIN THE LEGAL DEPARTMENT.  
01:40:03 9 MR. JAFFE: YOUR HONOR, I SEEK TO MOVE IN 4672 INTO  
01:40:06 10 EVIDENCE.  
01:40:06 11 MR. SILBERT: NO OBJECTION.  
01:40:07 12 THE COURT: IT WILL BE ADMITTED.  
01:40:08 13 (PLAINTIFF'S EXHIBIT 4672, WAS ADMITTED INTO EVIDENCE.)  
01:40:08 14 BY MR. JAFFE:  
01:40:09 15 Q. I WANT TO MOVE NOW TO EXHIBITS 4673 AND 4674 IN YOUR  
01:40:16 16 WITNESS BINDER, PLEASE.  
01:40:18 17 DO YOU RECOGNIZE THESE EXHIBITS?  
01:40:20 18 A. YES, I DO.  
01:40:21 19 Q. OKAY. WHAT ARE THESE?  
01:40:22 20 A. SO THESE ARE ALSO MEDIA COMPENDIA, JUST LIKE THE ONES THAT  
01:40:27 21 WE SAW BEFORE ABOUT THE DAY WE FILED THE LAWSUIT AGAINST  
01:40:31 22 HUAWEI. THESE ARE FROM THE TIME THAT WE SUSPENDED THE LAWSUIT.  
01:40:34 23 SO IT'S THE SELECTION OF THE MEDIA COVERAGE FROM THAT  
01:40:37 24 TIME.  
01:40:38 25 Q. AND IS THIS THE SAME TYPE OF MEDIA COLLECTION THAT WE

01:40:42 1 TALKED ABOUT EARLIER?

01:40:42 2 A. YES, IT IS.

01:40:43 3 Q. OKAY.

01:40:44 4 MR. JAFFE: YOUR HONOR, I WOULD LIKE TO ADMIT  
01:40:47 5 EXHIBITS 4673 AND 4674 IN EVIDENCE, ALSO NOT FOR THE TRUTH OF  
01:40:52 6 THE MATTER ASSERTED.

01:40:53 7 MR. SILBERT: NO OBJECTION WITH THOSE PROVISIONS.

01:40:54 8 THE COURT: ALL RIGHT. THEY WILL BOTH BE ADMITTED.  
01:40:54 9 (PLAINTIFF'S EXHIBIT 4673, AND 4674, WERE ADMITTED INTO  
01:40:56 10 EVIDENCE.)

01:40:56 11 THE COURT: AND LADIES AND GENTLEMEN, THE SAME  
01:40:58 12 ADMONITION I TOLD YOU BEFORE ABOUT NEWS CLIPPINGS AND MEDIA  
01:41:02 13 REPORTS, I GUESS IS THE BROADER CATEGORY NOW.

01:41:05 14 BY MR. JAFFE:

01:41:05 15 Q. MR. FISHER, IF YOU COULD SHOW THE FIRST PAGE OF  
01:41:09 16 EXHIBIT 4673 TO THE JURY.

01:41:12 17 MR. LANG, WHAT ARE WE LOOKING AT HERE FOR THE JURY ON  
01:41:17 18 EXHIBIT 4673?

01:41:18 19 A. SURE.

01:41:19 20 THIS IS THE FRONT PAGE THAT MEDIA COMPENDIUM FOLLOWING THE  
01:41:24 21 SUSPENSION OF OUR LAWSUIT WITH HUAWEI. AND IT SHOWS THE  
01:41:28 22 DIFFERENT NEWS ORGANIZATIONS THAT CARRY THE STORY. HERE AT THE  
01:41:31 23 TOP OF IT, YOU SEE, VERY COMMON FAMOUS ONES LIKE *REUTERS* AND  
01:41:36 24 *THE NEW YORK TIMES*, AND ALSO SOME MORE SPECIALIZED INDUSTRY  
01:41:40 25 NEWS ORGANIZATIONS LIKE *NETWORK WORLD FUSION* AND *LIGHT READING*.

01:41:44 1 Q. ALL RIGHT. I WANT TO BRIEFLY CHANGE TOPICS AGAIN HERE.

01:41:50 2 HAVE THEIR BEEN INSTANCES WHERE CISCO HAS LICENSED IP,

01:41:55 3 THAT IS INTELLECTUAL PROPERTY, FROM OTHERS?

01:41:58 4 A. YES, THERE HAVE BEEN.

01:41:59 5 Q. CAN YOU PROVIDE AN EXAMPLE OF ONE OF THOSE?

01:42:01 6 A. SURE.

01:42:01 7 SO ONE EXAMPLE IS FROM AN EARLY POINT IN THE HISTORY OF

01:42:06 8 OUR COMPANY. WE TOOK A LICENSE FROM STANFORD FOR SOME GATEWAY

01:42:10 9 SOFTWARE. KIRK LOUGHEED, WHO WAS ONE OF OUR FIRST EMPLOYEES,

01:42:15 10 HAD WORKED AT STANFORD PREVIOUSLY. AND THERE WAS A

01:42:17 11 MISUNDERSTANDING ABOUT THE OWNERSHIP OF SOME GATEWAY SOFTWARE.

01:42:20 12 WE RESOLVED THAT DISPUTE WITH STANFORD AMICABLY BY TAKING

01:42:24 13 A LICENSE.

01:42:24 14 Q. CAN YOU TURN TO EXHIBIT 698 IN YOUR WITNESS BINDER,

01:42:28 15 PLEASE.

01:42:28 16 A. SURE.

01:42:29 17 Q. AND WHEN YOU GET THERE, JUST LET ME KNOW IF YOU RECOGNIZE

01:42:32 18 IT.

01:42:32 19 A. YES. THIS IS THE LICENSE AGREEMENT THAT I WAS JUST

01:42:39 20 REFERRING TO.

01:42:41 21 Q. OKAY. WHERE IS THIS AGREEMENT MAINTAINED WITHIN CISCO?

01:42:43 22 A. IT'S ALSO MAINTAINED WITHIN THE LEGAL DEPARTMENT.

01:42:46 23 MR. JAFFE: YOUR HONOR, I SEEK TO MOVE EXHIBIT 698

01:42:49 24 INTO EVIDENCE.

01:42:49 25 MR. SILBERT: NO OBJECTION.

01:42:50 1 THE COURT: IT WILL BE ADMITTED.

01:42:52 2 (PLAINTIFF'S EXHIBIT 698, WAS ADMITTED INTO EVIDENCE.)

01:42:52 3 BY MR. JAFFE:

01:42:53 4 Q. LET'S TURN TO EXHIBIT 700, PLEASE. WHAT IS EXHIBIT 700?

01:43:00 5 A. SO THIS IS AN AMENDMENT TO THE LICENSE AGREEMENT WE JUST  
01:43:03 6 SAW, THE LICENSE AGREEMENT WE JUST SAW WAS THAT 1987. THIS IS  
01:43:08 7 AN AMENDMENT WE REACHED IN 2002.

01:43:11 8 WE HAD CONTINUED TO HAVE GOOD RELATIONS WITH STANFORD AND  
01:43:14 9 NOW WE AMENDED THE LICENSE AGREEMENT IN A WAY THAT WE WERE NOW  
01:43:19 10 THE EXCLUSIVE LICENSEES, WE WERE THE ONLY ONES WITH THE RIGHTS  
01:43:22 11 TO THE SOFTWARE.

01:43:23 12 Q. AND IS THIS AGREEMENT ALSO KEPT IN YOUR DEPARTMENT AT  
01:43:25 13 CISCO?

01:43:26 14 A. YES, IT IS.

01:43:28 15 MR. JAFFE: YOUR HONOR, I WANT TO MOVE IN EXHIBIT 700  
01:43:34 16 INTO EVIDENCE PLEASE.

01:43:35 17 MR. SILBERT: NO OBJECTION.

01:43:35 18 THE COURT: IT WILL BE ADMITTED.

01:43:38 19 (PLAINTIFF'S EXHIBIT 700, WAS ADMITTED INTO EVIDENCE.)

01:43:38 20 MR. JAFFE: THANK YOU, MR. LANG. I PASS THE WITNESS.

01:43:40 21 THE COURT: MR. SILBERT.

01:43:58 22 **CROSS-EXAMINATION**

01:43:59 23 BY MR. SILBERT:

01:43:59 24 Q. GOOD AFTERNOON, MR. LANG. NICE TO SEE YOU AGAIN. IF YOU  
01:44:02 25 CAN GIVE US JUST A SECOND, I THINK CARRIE WILL GIVE YOU A

01:44:05 1  
01:44:06 2  
01:44:33 3  
01:44:37 4  
01:44:42 5  
01:44:49 6  
01:44:50 7  
01:44:53 8  
01:44:57 9  
01:44:57 10  
01:45:02 11  
01:45:04 12  
01:45:08 13  
01:45:12 14  
01:45:13 15  
01:45:19 16  
01:45:25 17  
01:45:27 18  
01:45:33 19  
01:45:34 20  
01:45:40 21  
01:45:44 22  
01:45:45 23  
01:45:47 24  
01:45:53 25

BINDER OF EXHIBITS.

A. SURE.

Q. MR. LANG, IN THE HUAWEI CASE, CISCO ALLEGED THAT HUAWEI HAD STOLEN IOS SOURCE CODE; IS THAT RIGHT?

A. YES, AND THAT THAT INCLUDED CLI, THERE WAS ALSO ASSOCIATED DOCUMENTATION.

Q. YOU ARE SAYING THAT CISCO'S ALLEGATION THAT WAS HUAWEI STOLE SOURCE CODE FOR THE CLI, THAT'S WHAT YOU WERE REFERRING TO?

A. WELL, I'M REFERRING TO THAT, ALTHOUGH THEY COME TOGETHER, THE CLI COMES WITH THE SOURCE CODE.

Q. CISCO ALLEGED IN THAT CASE THAT HUAWEI STOLE A LOT OF SOURCE CODE, RIGHT?

A. I BELIEVE SO.

Q. OKAY. AND YOU BELIEVED THAT THE MISAPPROPRIATION OF A LOT OF IOS SOURCE CODE BY HUAWEI MAY HAVE INHERENTLY LEAD TO THE USE OF CISCO'S CLI, RIGHT?

A. YES. I NOTE THAT CHANGING THE CLI WAS A PART OF THE RESOLUTION OF THE LAWSUIT.

Q. CISCO HAS GIVEN BRIEFINGS TO COMPANIES THAT WERE PEOPLE THAT WERE PARTNERS WITH, ABOUT HUAWEI AND THE HUAWEI LITIGATION, RIGHT?

A. I'M NOT DIRECTLY FAMILIAR WITH THAT.

Q. OKAY. WOULD YOU LOOK PLEASE AT EXHIBIT 5345, WHICH I HOPE IS IN YOUR BINDER. DO YOU HAVE THAT EXHIBIT?

01:46:02 1

A. YES.

01:46:03 2

Q. AND YOU TESTIFIED AS A CORPORATE REPRESENTATIVE IN

01:46:07 3

DEPOSITION ON BEHALF OF CISCO WITH RESPECT TO CERTAIN TOPICS

01:46:10 4

ABOUT HUAWEI, THE HUAWEI LITIGATION, CORRECT?

01:46:13 5

A. YES, THAT'S CORRECT.

01:46:14 6

Q. AND DO YOU RECALL TESTIFYING ABOUT THIS DOCUMENT IN YOUR

01:46:17 7

DEPOSITION, I CAN DIRECT YOU TO THE, YOUR NAME ON THE EXHIBIT

01:46:21 8

STICKER ON THE FRONT.

01:46:23 9

A. YES, THE DOCUMENT APPEARS TO BE FAMILIAR.

01:46:26 10

THE COURT: WHAT WAS THAT EXHIBIT NUMBER?

01:46:28 11

MR. SILBERT: I'M SORRY, IT'S 5345.

01:46:31 12

THE COURT: THANK YOU. I GOT IT.

01:46:33 13

BY MR. SILBERT:

01:46:34 14

Q. AND THIS IS A CISCO PRESENTATION CONCERNING HUAWEI; IS

01:46:38 15

THAT RIGHT?

01:46:38 16

A. YES, IT APPEARS TO BE.

01:46:40 17

MR. SILBERT: YOUR HONOR, I OFFER EXHIBIT 5345 INTO  
EVIDENCE.

01:46:43 18

01:46:44 19

MR. JAFFE: NO OBJECTION.

01:46:45 20

THE COURT: THANK YOU, IT WILL BE ADMITTED.

01:47:00 21

(DEFENDANT'S EXHIBIT 5345, WAS ADMITTED INTO EVIDENCE.)

01:47:01 22

BY MR. SILBERT:

01:47:01 23

Q. IF YOU LOOK AT THE FIRST PAGE OF THE EXHIBIT YOU SEE THE

01:47:03 24

TITLE IS HUAWEI ENTERPRISE BRIEFING FOR CISCO PARTNERS, RIGHT?

01:47:08 25

A. YES, I SEE THE TITLE.



01:47:10 1  
01:47:23 2  
01:47:26 3  
01:47:30 4  
01:47:32 5  
01:47:36 6  
01:47:39 7  
01:47:42 8  
01:47:43 9  
01:47:48 10  
01:47:52 11  
01:47:56 12  
01:48:00 13  
01:48:01 14  
01:48:02 15  
01:48:05 16  
01:48:12 17  
01:48:16 18  
01:48:21 19  
01:48:24 20  
01:48:27 21  
01:48:30 22  
01:48:31 23  
01:48:32 24  
01:48:36 25

Q. AND IF YOU COULD PLEASE TURN TO SLIDE NUMBER 35.

THE TITLE OF THIS SLIDE IS CISCO'S CASE AGAINST HUAWEI,  
RIGHT? CORRECT?

A. YES, I SEE THE TITLE.

Q. AND THIS SLIDE SUMMARIZES -- IS A SUMMARY BY CISCO OF  
CISCO'S LAWSUIT AGAINST HUAWEI; IS THAT RIGHT?

A. YES, IT INCLUDES INFORMATION ABOUT THE LAWSUIT.

Q. OKAY.

AND I JUST WANT TO DIRECT YOUR ATTENTION TO THE BULLET  
POINTS HERE. THE FIRST BULLET POINT -- WELL, AT THE TOP -- IT  
SAYS "CISCO SUED HUAWEI OVER UNLAWFUL COPYING OF ITS  
INTELLECTUAL PROPERTY. CISCO ALLEGED THAT," AND THEN A COLON.

DO YOU SEE THAT?

A. YES.

Q. OKAY. AND THEN THE FIRST BULLET POINT SAYS, "HUAWEI  
UNLAWFULLY COPIED AND MISAPPROPRIATED CISCO'S IOS SOFTWARE  
SOURCE CODE, AND INCLUDED THE TECHNOLOGY IN ITS OPERATING  
SYSTEM FOR ITS QUIDWAY ROUTERS AND SWITCHES."

IT GOES ON, "HUAWEI'S OPERATING SYSTEM CONTAINS A NUMBER  
OF TEXT STRINGS, FILE NAMES AND BUGS THAT ARE IDENTICAL TO  
THOSE FOUND IN CISCO'S IOS SOURCE CODE."

DO YOU SEE THAT?

A. YES.

Q. NO MENTION OF THE CLI IN THAT BULLET POINT, RIGHT?

A. WELL, I WOULD VIEW IT AS BEING PART OF THE SOURCE CODE AND

01:48:41 1  
01:48:43 2  
01:48:48 3  
01:48:51 4  
01:48:55 5  
01:48:58 6  
01:49:02 7  
01:49:05 8  
01:49:08 9  
01:49:13 10  
01:49:16 11  
01:49:20 12  
01:49:23 13  
01:49:26 14  
01:49:28 15  
01:49:31 16  
01:49:34 17  
01:49:35 18  
01:49:35 19  
01:49:40 20  
01:49:43 21  
01:49:44 22  
01:49:48 23  
01:49:50 24  
01:49:53 25

POSSIBLY BEING ASSOCIATED WITH THE TEXT STRINGS.

Q. YOU -- IN THE CASE OF HUAWEI, YOU VIEW THE CLI AS BEING ASSOCIATED WITH THE USE OF THE SOURCE CODE?

A. IT WAS A DIFFERENT CASE. I MEAN, THEY MISAPPROPRIATED SOURCE CODE, THEY ALSO MISAPPROPRIATED THE CLI.

Q. DO YOU SEE A MENTION OF THE CLI IN THE FIRST BULLET POINT?

A. NO, THERE ISN'T. BUT THEY MISAPPROPRIATED THE CLI.

Q. OKAY. IN THE SECOND BULLET POINT OF THE SLIDE THAT CISCO CREATED ABOUT THE HUAWEI LITIGATION, IT SAYS, "HUAWEI COPIED EXTENSIVELY FROM CISCO'S COPYRIGHTED TECHNICAL DOCUMENTATION AND INCLUDED WHOLE PORTIONS OF CISCO'S TEXT IN THEIR USER MANUALS FOR QUIDWAY ROUTERS AND SWITCHES," RIGHT?

A. I SEE THAT BULLET POINT.

Q. NO MENTION OF THE CLI THERE EITHER, RIGHT?

A. THAT BULLET SEEMS TO BE ABOUT DOCUMENTATION.

Q. RIGHT. AND THE THIRD BULLET, IF YOU LOOK AT IT IS ABOUT PATENTS, RIGHT?

A. RIGHT.

Q. AND IN THIS SLIDE THAT CISCO CREATED TO SUMMARIZE THE HUAWEI LITIGATION, IT DOESN'T EVEN BOTHER TO MENTION THE CLI ALLEGATIONS, RIGHT?

A. WELL, I THINK TO ME READING THOSE ABOUT THE SOURCE CODE, I SEE THE CLI AS BEING INCLUDED.

Q. BECAUSE YOU THINK THAT IN THE CASE OF THE HUAWEI -- IN THE HUAWEI CASE, ALLEGATIONS ABOUT THEFT OF SOURCE CODE, THAT'S

01:49:58 1 WHERE THE -- THAT INVOLVES THE SAME ALLEGATIONS AS USE OF THE  
01:50:03 2 CLI?

01:50:05 3 A. WELL I'M WELL AWARE THAT THE CLI WAS MISAPPROPRIATED.  
01:50:14 4 THAT WAS PART OF THEIR INFRINGEMENT, AND WE CORRECTED THAT BY  
01:50:18 5 HAVING THEM CHANGE IT AFTERWARDS.

01:50:20 6 Q. RIGHT.

01:50:21 7 BUT YOUR BELIEF IS THAT IF SOMEBODY COPIES THAT SOURCE  
01:50:23 8 CODE, IF THEY LITERALLY TAKE MOST OF THE SOURCE CODE FOR THE  
01:50:27 9 OPERATING SYSTEM, THEN INHERENTLY THEY ARE GOING TO END UP  
01:50:29 10 USING A LOT OF CLI, RIGHT?

01:50:30 11 A. THAT'S ONE WAY OF DOING IT, IT'S ALSO POSSIBLE TO SIMPLY  
01:50:33 12 COPY THE CLI.

01:50:34 13 Q. WITHOUT USING ANY SOURCE CODE YOU MEAN?

01:50:37 14 A. IT'S POSSIBLE.

01:50:40 15 Q. RIGHT.

01:50:41 16 AND CISCO, IN FACT -- CISCO HAS IN FACT KNOWN FOR MANY  
01:50:49 17 YEARS THAT OTHER SWITCH VENDORS HAS COPIED ITS CLI COMMANDS  
01:50:54 18 WITHOUT USING ANY SOURCE CODE OF CISCO, RIGHT?

01:50:56 19 A. COULD YOU REPEAT YOUR QUESTION, PLEASE.

01:50:58 20 Q. YEAH.

01:50:58 21 CISCO HAS KNOWN FOR MANY YEARS THAT OTHER SWITCH VENDORS  
01:51:03 22 HAVE COPIED CISCO'S CLI COMMANDS, BUT DONE SO WITHOUT COPYING  
01:51:08 23 ANY CISCO SOURCE CODE?

01:51:10 24 A. I DON'T KNOW THAT TO BE TRUE. I MEAN, WE HAVE A  
01:51:14 25 COMPETITIVE ANALYSIS FUNCTION AND THEY LOOK AT VARIOUS FEATURES

01:51:20 1 OF COMPETING PRODUCTS, AND WE KNOW OF CERTAINLY ONE THAT COPIED  
01:51:29 2 THE CLI TO A VERY GREAT DEGREE, ARISTA.

01:51:31 3 Q. WELL, WOULD YOU LOOK PLEASE AT EXHIBIT 8966 WHICH IS IN  
01:51:36 4 EVIDENCE.

01:51:44 5 IF YOU LOOK AT THE DATE ON THIS CISCO SLIDE DECK, IT'S A  
01:51:47 6 LITTLE HARD TO SEE, IT'S IN SMALL PRINT AT THE BOTTOM, YOU SEE  
01:51:53 7 THAT'S 2001?

01:51:54 8 A. I SEE THAT DATE. I DON'T KNOW IF IT'S THE DATE OF THE  
01:51:57 9 TEMPLATE THAT WAS USED AS OPPOSED TO THE DATE OF THE  
01:52:01 10 PRESENTATION.

01:52:02 11 Q. OKAY. WOULD YOU LOOK, PLEASE, AT SLIDE NUMBER 10 OF THIS  
01:52:05 12 SLIDE DECK. I WILL DIRECT YOUR ATTENTION TO THE TOP -- THERE  
01:52:11 13 UNDER THE HEADING TIER 1, AND THEN THERE'S AN ENTRY FOR  
01:52:15 14 FOUNDRY. DO YOU SEE THAT?

01:52:20 15 I'M SORRY, ARE YOU ON SLIDE TEN? YOU CAN LOOK ON YOUR  
01:52:25 16 SCREEN AS WELL, IF IT'S EASIER.

01:52:27 17 DO YOU SEE THE ENTRY FOR FOUNDRY UNDER TIER 1?

01:52:31 18 A. YES.

01:52:31 19 Q. FOUNDRY WAS A TIER 1 COMPETITOR OF CISCO, RIGHT?

01:52:37 20 A. IT'S LISTED AS ONE ON THE SLIDE, APPARENTLY.

01:52:44 21 Q. AND FOUNDRY WAS LATER ACQUIRED, RIGHT, BY BROCADE,  
01:52:49 22 CORRECT?

01:52:50 23 A. YES, I VAGUELY RECALL THAT.

01:52:52 24 Q. OKAY. AND WHAT CISCO WROTE ON THIS SLIDE ABOUT FOUNDRY,  
01:52:56 25 IF YOU LOOK OVER ON THE RIGHT UNDER THE "COMPETITOR'S STRATEGY"

01:53:00 1 COLUMN WAS, "COPY CLI FROM IOS." DO YOU SEE THAT?

01:53:05 2 A. I SEE THAT.

01:53:06 3 Q. CISCO NEVER SUED FOUNDRY FOR COPYING THE CLI, DID IT?

01:53:11 4 A. NO, I'M AWARE OF, FROM MY OWN INTERACTIONS WITH OUR

01:53:15 5 COMPETITIVE ANALYSIS TEAM, THAT NOW BROCADE'S USE OF THE CLI IS

01:53:23 6 NOT A COPYING OF OURS IN THE SAME WAY THAT ARISTA'S IS; THAT

01:53:27 7 ARISTA IS UNIQUE AMONG OUR TIER 1 COMPETITORS, THAT THEIR

01:53:31 8 OPERATING SYSTEM CAN BE USED BY SOMEONE TRAINED IN CISCO'S

01:53:35 9 OPERATING SYSTEM WITHOUT FURTHER TRAINING.

01:53:36 10 Q. SIR, YOU HAVE NO PERSONAL KNOWLEDGE OF WHAT YOU JUST

01:53:39 11 RECITED, DO YOU?

01:53:40 12 A. I LEARNED THAT INFORMATION FROM A COMPETITIVE ANALYSIS

01:53:44 13 EXPERT WITHIN OUR COMPANY.

01:53:45 14 MR. SILBERT: I MOVE TO STRIKE AS HEARSAY.

01:53:46 15 THE COURT: IT WILL BE STRICKEN. GRANTED.

01:53:51 16 BY MR. SILBERT:

01:53:51 17 Q. CISCO HAS NEVER SUED DELL FOR COPYING CISCO CLI, HAS IT?

01:53:54 18 A. NO.

01:53:54 19 Q. ARE YOU AWARE THAT DELL USES MORE THAN 1,000 MULTIWORD

01:53:59 20 COMMANDS THAT ARE THE SAME AS CISCO?

01:54:03 21 A. I DON'T KNOW THE EXACT NUMBER. I ONLY -- I'M ONLY AWARE

01:54:07 22 OF ARISTA'S UNIQUENESS AS A COMPETITOR.

01:54:12 23 Q. ARE YOU AWARE THAT DELL HAS POSTED A VIDEO ON ITS

01:54:15 24 CORPORATE YOU TUBE CHANNEL IN WHICH IT COMPARES ITS CLI TO

01:54:21 25 CISCO'S AND HIGHLIGHTS HOW SIMILAR THEY ARE?

01:54:23 1 A. I'M NOT AWARE OF THAT VIDEO.

01:54:25 2 Q. OKAY. YOU'VE HEARD OF BLADE NETWORK TECHNOLOGIES?

01:54:30 3 A. YES, I'VE HEARD OF THEM.

01:54:32 4 Q. YOU KNOW THAT BLADE OFFERED A CLI THAT IT CALLED THE  
01:54:35 5 IS-CLI OR INDUSTRY STANDARD CLI, ON ITS ETHERNET SWITCHES?

01:54:39 6 A. NO, AND I WOULDN'T KNOW WHAT THEY MEAN BY THAT.

01:54:42 7 Q. OKAY. DO YOU KNOW THAT BLADE WAS ACQUIRED BY IBM AT SOME  
01:54:47 8 POINT?

01:54:47 9 A. I -- I NEVER KNEW THAT OR HAVE FORGOTTEN.

01:54:51 10 Q. OKAY. CISCO NEVER SUED IBM FOR USE OF CLI COMMANDS THAT  
01:54:54 11 ARE THE SAME AS CISCO'S, DID IT?

01:54:56 12 A. NO.

01:54:57 13 Q. CISCO NEVER SUED BLADE FOR USE OF CLI COMMANDS THAT ARE  
01:55:00 14 THE SAME AS CISCO'S, CORRECT?

01:55:02 15 A. NO.

01:55:04 16 Q. CISCO NEVER SUED HEWLETT-PACKARD FOR THE USE OF CLI  
01:55:10 17 COMMANDS THAT ARE THE SAME AS CISCO'S, HAS IT?

01:55:12 18 A. NO. BUT AGAIN, I CONTEST THAT THEIR SIMILARITIES IS THE  
01:55:17 19 SAME AS WHAT WE ARE DEALING WITH HERE.

01:55:19 20 Q. EXCUSE ME.

01:55:20 21 BUT AGAIN, YOU HAVE NO PERSONAL KNOWLEDGE OF WHAT YOU JUST  
01:55:23 22 STATED; IS THAT RIGHT?

01:55:24 23 A. I HAVE THE KNOWLEDGE I INDICATED EARLIER.

01:55:26 24 MR. SILBERT: I MOVE TO STRIKE AGAIN.

01:55:28 25 THE COURT: SUSTAINED. I WILL STRIKE THE LAST

01:55:32 1

SUBSTANTIVE ANSWER.

01:55:33 2

BY MR. SILBERT:

01:55:33 3

Q. YOU SAID THAT IN THE HUAWEI LITIGATION, CISCO OBTAINED A

01:55:38 4

PRELIMINARY INJUNCTION, RIGHT?

01:55:39 5

A. YES.

01:55:39 6

Q. AND A PRELIMINARY INJUNCTION IS AN ORDER BY THE COURT

01:55:44 7

ORDERING THE DEFENDANT TO STOP DOING SOMETHING, SUCH AS

01:55:48 8

INFRINGING ON INTELLECTUAL PROPERTY RIGHTS, CORRECT?

01:55:50 9

A. YES.

01:55:53 10

Q. OKAY. NOW ISN'T IT TRUE THAT IN THE HUAWEI CASE, THE

01:55:57 11

COURT SPECIFICALLY REFUSED TO ISSUE A PRELIMINARY INJUNCTION

01:56:01 12

RELATED TO CISCO'S CLI CLAIM?

01:56:04 13

A. I'M NOT AWARE OF THAT.

01:56:06 14

Q. YOU DON'T KNOW THAT TO BE TRUE?

01:56:08 15

A. NO.

01:56:08 16

Q. WOULD YOU PLEASE LOOK AT EXHIBIT 7558 IN YOUR BINDER.

01:56:26 17

DO YOU RECOGNIZE THIS AS THE PRELIMINARY INJUNCTION ORDER

01:56:28 18

ISSUED BY THE COURT IN THE HUAWEI LITIGATION?

01:56:44 19

A. YES, THAT'S WHAT IT APPEARS TO BE.

01:56:46 20

Q. WOULD YOU TURN TO PAGE 5, PLEASE --

01:56:48 21

MR. SILBERT: I'M SORRY, YOUR HONOR, I OFFER

01:56:51 22

EXHIBIT 7558.

01:56:52 23

MR. JAFFE: NO OBJECTION.

01:56:52 24

THE COURT: THANK YOU, IT WILL BE ADMITTED.

01:56:55 25

(DEFENDANT'S EXHIBIT 7558, WAS ADMITTED INTO EVIDENCE.)

01:56:55 1  
01:56:55 2  
01:57:07 3  
01:57:10 4  
01:57:13 5  
01:57:16 6  
01:57:17 7  
01:57:21 8  
01:57:21 9  
01:57:23 10  
01:57:27 11  
01:57:30 12  
01:57:33 13  
01:57:36 14  
01:57:38 15  
01:57:39 16  
01:57:41 17  
01:57:44 18  
01:57:47 19  
01:57:50 20  
01:57:53 21  
01:57:56 22  
01:58:01 23  
01:58:05 24  
01:58:06 25

BY MR. SILBERT:

Q. WOULD YOU PLEASE TURN TO PAGE 5. DIRECTING YOUR ATTENTION TO THE TOP -- PARAGRAPH -- FEEL READ TO READ AS MUCH OF THE PARAGRAPH ABOVE FOR CONTEXT AS YOU LIKE, BUT I WANT TO DIRECT YOUR ATTENTION TO THE LAST TWO LINES WHERE THE COURT WROTE -- STRIKE THAT.

THE PLAINTIFF, THAT REFERS TO CISCO, RIGHT? CISCO WAS THE PLAINTIFF IN THIS CASE?

A. YES, CISCO WAS THE PLAINTIFF IN THIS CASE.

Q. OKAY. I WANT TO DIRECT YOUR ATTENTION TO THE BOTTOM TWO LINES OF THAT PARAGRAPH WHERE THE COURT WROTE, "THE PLAINTIFF HAS NOT UNDERTAKEN THIS ANALYSIS. THE COURT IS THEREFORE NOT PERSUADED TO ISSUE A PRELIMINARY INJUNCTION RESULTED TO THE PLAINTIFF'S CLI."

DO YOU SEE THAT?

A. YES, I DO.

Q. ISN'T IT TRUE THAT THE COURT ISSUED A PRELIMINARY INJUNCTION IN THE HUAWEI LITIGATION WITH RESPECT TO USE OF SOURCE CODE BUT SPECIFICALLY DID NOT ISSUE A PRELIMINARY INJUNCTION WITH RESPECT CISCO'S CLI CLAIM?

A. I HAVEN'T REVIEWED THIS PRELIMINARY INJUNCTION IN SOME TIME. THAT MAY BE TRUE, BUT AS I TESTIFIED EARLIER, THE RESOLUTION OF THAT LAWSUIT, IT INVOLVED HUAWEI CHANGING ITS CLI.

Q. RIGHT. BECAUSE THERE WAS A SETTLEMENT AGREEMENT, RIGHT?



01:58:09 1

A. YES.

01:58:10 2

Q. (REDACTED)

01:58:22 3

Q. OKAY. LET'S LOOK AT -- CAN WE LOOK AT THE SETTLEMENT

01:58:25 4

AGREEMENT WHICH YOU DISCUSSED WITH MR. JAFFE, THAT'S

01:58:29 5

EXHIBIT 4672.

01:58:36 6

MR. JAFFE: MR. SILBERT, THIS IS A CONFIDENTIAL

01:58:38 7

AGREEMENT. I JUST WANT TO MAKE SURE, IF WE PUBLISH IT TO THE

01:58:41 8

JURY, I JUST MENTION THAT.

01:58:43 9

THE COURT: ARE YOU PUBLISHING IT TO THE JURY?

01:58:45 10

MR. VAN NEST: IT'S IN EVIDENCE?

01:58:46 11

MR. SILBERT: IT'S IN EVIDENCE.

01:58:47 12

THE COURT: IT'S IN EVIDENCE. WE ARE JUST NOT

01:58:48 13

PUTTING IT ON THE BIG SCREENS, IS THAT WHAT YOU'RE ASKING?

01:58:52 14

MR. JAFFE: YES, PLEASE.

01:58:53 15

THE COURT: AND WE CAN CERTAINLY DO THAT.

01:58:54 16

AND IF YOU WANT TO PUT YOUR OWN MONITORS DOWN BECAUSE OF

01:58:57 17

CONFIDENTIALITY, I WILL INVITE YOU TO DO THAT.

01:59:14 18

MR. SILBERT: IT'S GOING TO BE SHOWN TO THE JURY

01:59:16 19

THOUGH, RIGHT?

01:59:17 20

THE COURT: IT'S GOING TO BE SHOWN TO THE JURY. WE

01:59:19 21

HAVE JUST TURNED THE BIG SCREENS OFF, IS THAT SUFFICIENT?

01:59:22 22

THANK YOU.

01:59:23 23

BY MR. SILBERT:

01:59:23 24

Q. YOU HAVE THAT IN FRONT OF YOU, MR. LANG?

01:59:25 25

A. YES.

01:59:25 1 Q. (REDACTED)

02:02:58 2 Q. WELL, YOU OVERSEE A SECTION OF THE LEGAL DEPARTMENT AT

02:03:02 3 CISCO, RIGHT?

02:03:03 4 A. YES, I DO.

02:03:04 5 Q. AND THAT -- AND SPECIFICALLY THE SECTION OF THE LEGAL

02:03:07 6 DEPARTMENT THAT'S INVOLVED WITH INTELLECTUAL PROPERTY, RIGHT?

02:03:09 7 A. YES.

02:03:10 8 Q. AND THAT WOULD INCLUDE THE PORTION OF THE LEGAL DEPARTMENT

02:03:14 9 THAT WOULD HAVE NEGOTIATED AND DRAFTED A SETTLEMENT AGREEMENT

02:03:17 10 WITH HUAWEI ABOUT INTELLECTUAL PROPERTY CLAIMS, RIGHT?

02:03:20 11 A. RIGHT. THIS AGREEMENT WAS NEGOTIATED BY MY PREDECESSORS.

02:03:24 12 Q. OKAY. BUT YOU CERTAINLY ARE KNOWLEDGEABLE ABOUT DRAFTING

02:03:28 13 THE INTELLECTUAL PROPERTY AGREEMENTS, RIGHT?

02:03:31 14 A. YES, I MEAN, PRIMARILY I'VE WORKED ON PATENT AGREEMENTS,

02:03:34 15 BUT YES.

02:03:35 16 Q. (REDACTED)

02:04:49 17 Q. BEFORE CISCO SUED HUAWEI, IT CONTACTED HUAWEI TO DISCUSS

02:05:03 18 THE CONCERNS THAT CISCO HAD ABOUT HUAWEI'S APPARENT USE OF

02:05:07 19 CISCO'S INTELLECTUAL PROPERTY, RIGHT?

02:05:09 20 A. I ACTUALLY AM GENERALLY AWARE OF THAT BEING TRUE, I'M NOT

02:05:14 21 UP ON THE DETAILS.

02:05:15 22 Q. DO YOU KNOW THAT HIGH RANKING CISCO EXECUTIVES ACTUALLY

02:05:20 23 FLEW TO CHINA TO HAVE MEETINGS WITH HUAWEI ON SEVERAL DIFFERENT

02:05:26 24 OCCASIONS BEFORE FILING ANY LAWSUIT?

02:05:29 25 A. YEAH, I WAS NOT WORKING AT CISCO AT THE TIME, AND I DON'T

02:05:32 1 KNOW THE SPECIFICS OF THAT.

02:05:34 2 Q. OKAY. LET'S MOVE TO CISCO AND STANFORD.

02:05:41 3 SO IN 1986, IN THE SUMMER OF 1986, STANFORD SENT A LETTER  
02:05:50 4 TO CISCO ALLEGING THAT CISCO HAD MISAPPROPRIATED INTELLECTUAL  
02:05:57 5 PROPERTY BELONGING TO STANFORD, RIGHT?

02:06:01 6 A. I RECALL SEEING A LETTER ON THE TOPIC, BUT I DON'T  
02:06:04 7 REMEMBER THE DETAILS.

02:06:05 8 Q. WOULD YOU LOOK PLEASE AT EXHIBIT 5195. THAT'S THE LETTER  
02:06:20 9 THAT STANFORD SENT, RIGHT?

02:06:26 10 A. YES, IT APPEARS TO BE.

02:06:34 11 MR. SILBERT: AND YOUR HONOR, I OFFER EXHIBIT 5195.

02:06:37 12 MR. JAFFE: NO OBJECTION.

02:06:37 13 THE COURT: IT WILL BE ADMITTED.

02:06:39 14 (DEFENDANT'S EXHIBIT 5195 WAS ADMITTED INTO EVIDENCE.)

02:06:40 15 BY MR. SILBERT:

02:06:41 16 Q. AND I WANT TO DIRECT YOUR ATTENTION DOWN TO THE BOTTOM  
02:06:43 17 UNDER NUMBER TWO WHERE IT SAYS, TIP/GATEWAY SOFTWARE?

02:06:50 18 A. YES, I SEE THAT.

02:06:51 19 Q. AND IN THIS LATER STANFORD WROTE, "WE NOW UNDERSTAND THAT  
02:06:59 20 KIRK LOUGHEED WAS WORKING FOR CISCO SYSTEMS WHILE HE WAS  
02:07:03 21 EMPLOYED FULL-TIME AS A MANAGER IN THE ELECTRICAL ENGINEERING  
02:07:07 22 COMPUTER FACILITY.

02:07:09 23 DURING THAT TIME, HE DID SUBSTANTIAL WORK ON STANFORD'S  
02:07:13 24 TIP/GATEWAY SOFTWARE AS PART OF HIS UNIVERSITY DUTIES AND USING  
02:07:19 25 UNIVERSITY FACILITIES. THIS SOFTWARE, INCLUDING ALL UPDATES

02:07:23 1 AND IMPROVEMENTS, IS ACCORDINGLY STANFORD PROPERTY; WE HAVE NOT  
02:07:27 2 LICENSED IT TO YOU, CISCO, OR MR. LOUGHEED."  
02:07:35 3 DO YOU SEE THAT?  
02:07:35 4 A. YES, I DO.  
02:07:36 5 Q. STANFORD TOOK THE POSITION WITH CISCO THAT THE SOFTWARE  
02:07:40 6 MR. LOUGHEED TOOK WITH HIM WAS OWNED BY STANFORD, RIGHT?  
02:07:43 7 A. YES, THIS WAS WHAT I REFERRED TO IN MY DIRECT TESTIMONY AS  
02:07:46 8 BEING A DISPUTE THAT WE RESOLVED AMICABLY WITH THE LICENSE WE  
02:07:52 9 SAW THEN.  
02:07:52 10 Q. RIGHT. AND STANFORD NEXT, IN THIS LETTER, WENT ON TO SAY,  
02:07:56 11 "WE THEREFORE REQUEST THAT YOU AND YOUR COMPANY IMMEDIATELY  
02:08:00 12 DISCONTINUE ANY USE, COPYING, ADAPTATION, SALE, OR DISTRIBUTION  
02:08:06 13 OF THE SOFTWARE," RIGHT?  
02:08:09 14 A. I SEE THAT LANGUAGE.  
02:08:10 15 Q. OKAY. AND THEN THEY NEXT SAID, "FURTHERMORE, WE MUST  
02:08:14 16 INSIST THAT STANFORD COPYRIGHT NOTICES WHICH WERE REMOVED FROM  
02:08:18 17 THE SOFTWARE, BE RESTORED ON ALL COPIES IN THE POSSESSION OF OR  
02:08:24 18 DISTRIBUTED BY CISCO OR ANY OF ITS OFFICERS, EMPLOYEES OR  
02:08:28 19 AGENTS."  
02:08:29 20 RIGHT?  
02:08:31 21 A. I SEE THAT LANGUAGE.  
02:08:32 22 Q. OKAY. AND LET'S LOOK NOW AT THE SETTLEMENT AGREEMENT THAT  
02:08:39 23 YOU REFERRED TO WHICH IS, OR I GUESS THERE'S TWO OF THEM,  
02:08:42 24 RIGHT, THE FIRST ONE AND THEN AN AMENDED ONE, RIGHT?  
02:08:45 25 A. RIGHT.

02:08:45 1 Q. SO IF YOU LOOK AT EXHIBIT 698 WHICH IS IN EVIDENCE, THAT'S  
02:09:03 2 THE LICENSE AGREEMENT, RIGHT?

02:09:05 3 A. RIGHT.

02:09:05 4 Q. THE FIRST ONE, CORRECT? AND AS PART OF THIS LICENSE  
02:09:12 5 AGREEMENT, CISCO AGREED TO PAY STANFORD A CERTAIN AMOUNT OF  
02:09:16 6 MONEY FOR A NONEXCLUSIVE LICENSE, RIGHT?

02:09:20 7 A. RIGHT.

02:09:21 8 Q. AND NONEXCLUSIVE MEANS STANFORD WAS FREE TO LICENSE THE  
02:09:26 9 SOFTWARE TO OTHER PEOPLE IF IT WANTED AS WELL, RIGHT?

02:09:29 10 A. RIGHT, THERE WAS MONEY, THERE WAS A LICENSE BACK FROM  
02:09:33 11 CISCO TO STANFORD, AND THERE WAS SOME DISCOUNTS.

02:09:36 12 Q. OKAY. IF YOU LOOK BACK AT -- EXCUSE ME, IF YOU LOOK DOWN  
02:09:40 13 IN THE AGREEMENT TO SECTION 6, SO IT STARTS ON PAGE 5. IT  
02:09:53 14 SAYS, "CONSIDERATION," AND THAT'S A LEGAL TERM FOR, TYPICALLY  
02:09:57 15 AN AMOUNT OF MONEY BEING PAID, RIGHT?

02:09:59 16 A. YES.

02:10:03 17 Q. THAT IS CORRECT, SIR?

02:10:04 18 A. YES, I SEE THAT.

02:10:05 19 Q. AND GO AHEAD AND LOOK AT THE PARAGRAPHS, IF YOU NEED TO,  
02:10:11 20 IF IT HELPS YOU, BUT I WANT TO DIRECT YOUR ATTENTION TO  
02:10:14 21 SECTION 6.7 WHICH SAYS THAT THE TOTAL AMOUNT THAT STANFORD --  
02:10:18 22 EXCUSE ME, THAT CISCO WILL PAY TO STANFORD, IT WILL NOT EXCEED  
02:10:23 23 IN THE AGGREGATE, \$150,000, RIGHT?

02:10:26 24 A. YES, I SEE THAT.

02:10:30 25 Q. SO THE AMOUNT THAT CISCO PAID FOR A NONEXCLUSIVE LICENSE

02:10:36 1 TO THE SOFTWARE THAT MR. LOUGHEED TOOK WITH HIM FROM STANFORD  
02:10:40 2 WAS A TOTAL OF \$150,000, RIGHT?

02:10:44 3 A. RIGHT. ALTHOUGH THAT WASN'T THE ONLY CONSIDERATION, THERE  
02:10:46 4 WAS ALSO A LICENSE TO, YOU KNOW, QUITE VALUABLE TECHNOLOGY THAT  
02:10:51 5 CISCO HAD DEVELOPED AND SOME DISCOUNTS FOR STANFORD. SO THAT  
02:10:55 6 WAS IN ADDITION TO THE MONEY THAT YOU ARE POINTING TO.

02:10:57 7 Q. OKAY. NOW THEN LET'S LOOK AT THE SECOND AGREEMENT THAT  
02:11:01 8 YOU REFER TO, WHICH IS EXHIBIT 700.

02:11:15 9 THIS AGREEMENT WAS SIGNED IN 002, RIGHT?

02:11:19 10 A. RIGHT.

02:11:20 11 Q. AND IN THIS AGREEMENT, CISCO RECEIVED AN EXCLUSIVE  
02:11:24 12 LICENSE, CORRECT?

02:11:24 13 A. THAT'S CORRECT.

02:11:26 14 Q. AND THAT MEANS STANFORD CAN'T LICENSE THE RIGHTS TO ANYONE  
02:11:30 15 BUT CISCO?

02:11:32 16 A. BASICALLY, YES.

02:11:33 17 Q. OKAY. AND AS PART OF THIS AGREEMENT, AND I CAN DIRECT  
02:11:37 18 YOUR ATTENTION TO SECTION 3 ON PAGE 4 OF THE AGREEMENT, BUT IN  
02:11:41 19 THIS AGREEMENT STANFORD PAID ANOTHER \$150,000, CORRECT?

02:11:45 20 A. YES.

02:11:51 21 Q. OKAY. SO THE TOTAL AMOUNT OF MONEY THAT CISCO PAID TO  
02:11:55 22 STANFORD FOR AN EXCLUSIVE LICENSE TO THE SOFTWARE THAT  
02:11:59 23 MR. LOUGHEED TOOK WITH HIM FROM STANFORD WAS \$300,000; IS THAT  
02:12:05 24 RIGHT?

02:12:05 25 A. RIGHT. MONEY. THERE WAS THE OTHER CONSIDERATION THAT I

02:12:08 1

MENTIONED EARLIER.

02:12:09 2

Q. LET'S SWITCH TO ANOTHER TOPIC, WHICH ARE THE COPYRIGHT

02:12:15 3

REGISTRATIONS THAT YOU TESTIFIED ABOUT WITH MR. JAFFE.

02:12:19 4

NOW THOSE REGISTRATIONS COVER MANY HUNDREDS OF THOUSANDS  
OF PAGES OF MATERIAL, RIGHT?

02:12:25 5

02:12:27 6

A. THAT'S A FAIR STATEMENT. THE SOURCE CODE IS VOLUMINOUS.

02:12:31 7

Q. YEAH. DO YOU KNOW, JUST THE SOURCE CODE, IF YOU WERE TO

02:12:35 8

PRINT IT OUT, DO YOU KNOW HOW MANY HUNDREDS OF THOUSANDS OF

02:12:37 9

PAGES THE SOURCE CODE WOULD FILL?

02:12:39 10

A. I DON'T KNOW EXACTLY, BUT I ASSUME IT WOULD BE ENORMOUS.

02:12:43 11

Q. UH-HUH. AND YOU SAID THAT THE ACTUAL SOURCE CODE ITSELF

02:12:49 12

WASN'T SUBMITTED TO THE COPYRIGHT OFFICE, THERE WERE, I THINK,

02:12:52 13

50 PAGES SUBMITTED AND THEN YOU SUBMITTED A LINK WHERE THEY

02:12:56 14

COULD LOOK AT MORE SOURCE CODE IF APPROXIMATE THEY WANTED TO;

02:12:59 15

IS THAT RIGHT?

02:12:59 16

A. THERE WAS AN EXCERPT, BUT I DON'T RECALL TESTIFYING TO A

02:13:02 17

NUMBER OF PAGES, BUT AN EXCERPT WAS SENT, AND THEN A LINK WAS

02:13:06 18

ALSO SENT.

02:13:06 19

Q. OKAY. AND ANOTHER SUBJECT OR ANOTHER CATEGORY COVERED BY

02:13:12 20

THOSE REGISTRATIONS ARE MANUALS, RIGHT, PRODUCT MANUALS?

02:13:18 21

A. RIGHT.

02:13:18 22

Q. AND DO YOU KNOW THE VOLUME OF JUST THE PRODUCT MANUALS

02:13:23 23

THAT ARE COVERED BY THE REGISTRATIONS THAT YOU TESTIFIED ABOUT?

02:13:27 24

A. I DON'T BUT I ASSUME IT'S QUITE LARGE.

02:13:29 25

Q. DO YOU KNOW THAT IT EXCEEDS 600,000 PAGES OF MANUALS?

02:13:34 1 A. I DON'T KNOW THE NUMBER.

02:13:37 2 Q. OKAY. WOULD YOU LOOK, PLEASE, AT EXHIBIT 4791 WHICH IS  
02:13:43 3 THE COMPILATION OF REGISTRATIONS WHICH IS IN EVIDENCE.

02:13:55 4 IF YOU ARE LOOKING ON THE FIRST PAGE, THIS IS FOR CISCO  
02:13:58 5 IOS VERSION 11.0, RIGHT?

02:14:01 6 A. YES.

02:14:02 7 Q. AND IF YOU LOOK ON KIND OF THE TOP -- RIGHT YOU SEE THAT  
02:14:05 8 THIS WAS, THE EFFECTIVE DATE OF THE REGISTRATION IS JUNE 14,  
02:14:10 9 2002?

02:14:10 10 A. YES.

02:14:12 11 Q. AND IF YOU SCROLL A LITTLE BIT DOWN YOU WILL SEE THAT THE  
02:14:15 12 WORK WAS DONE IN 1985 THERE IN SECTION 3-A -- EXCUSE ME, 1995.  
02:14:24 13 THE WORK WAS COMPLETED IN 1995?

02:14:28 14 A. YES, I SEE THOSE DATES.

02:14:30 15 Q. AND IF WE COULD LOOK AT THE NEXT PAGE UNDER THE HEADING  
02:14:36 16 DERIVATIVE WORK OR COMPILATION NUMBER 6, THERE'S A LARGE 6 ON  
02:14:42 17 THE RIGHT.

02:14:45 18 HERE ON THE FORM IT SAYS, PRE-EXISTING MATERIAL, IDENTIFY  
02:14:50 19 ANY PRE-EXISTING WORK OR WORKS THAT THIS WORK IS BASED ON OR  
02:14:54 20 INCORPORATES.

02:14:56 21 DO YOU SEE THAT?

02:14:57 22 A. YES, I DO.

02:14:58 23 Q. AND WHAT CISCO WROTE IN THIS APPLICATION IS THAT THE WORK,  
02:15:03 24 THE REGISTERED WORK, IN THIS CASE IOS 11.0, IS BASED ON OR  
02:15:08 25 INCORPORATES PRIOR WORKS BY CLAIMANT AND PRE-EXISTING THIRD



02:15:12 1 PARTY COMPUTER CODE, RIGHT?

02:15:15 2 A. YES, I THINK THAT'S PRETTY COMMON WITH SOFTWARE INDUSTRY,  
02:15:21 3 REFLECTS AN EVOLUTION OF PRIOR WORKS AND ALSO INCORPORATES  
02:15:24 4 ELEMENTS OF THIRD PARTY CODE.

02:15:25 5 Q. RIGHT.

02:15:25 6 AND IN FACT, ALL OF THE REGISTRATIONS THAT ARE INCLUDED IN  
02:15:28 7 THIS EXHIBIT, SAY THOSE WORDS OR WORDS VERY CLOSE TO THAT,  
02:15:34 8 RIGHT?

02:15:34 9 A. I DON'T RECALL REVIEWING EACH ONE.

02:15:37 10 Q. OKAY. CISCO NEVER IDENTIFIED FOR THE COPYRIGHT OFFICE,  
02:15:42 11 WHAT WAS -- WHAT IN ANY OF THESE WORKS WAS PRE-EXISTING  
02:15:46 12 THIRD-PARTY CODE, RIGHT?

02:15:47 13 A. I DON'T KNOW THAT WE DIDN'T, BUT I BELIEVE THAT'S PRETTY  
02:15:53 14 TYPICAL IN THE REGISTRATION PROCESS TO DO IT THIS WAY AND THE  
02:15:56 15 WAY THAT WE HAVE.

02:15:57 16 MR. SILBERT: OKAY. THANKS. I HAVE NO FURTHER  
02:15:59 17 QUESTIONS.

02:15:59 18 THE COURT: THANK YOU.

02:16:02 19 REDIRECT?

02:16:08 20 MR. JAFFE: JUST BRIEFLY, YOUR HONOR.

02:16:11 21 **REDIRECT EXAMINATION**

02:16:12 22 BY MR. JAFFE:

02:16:14 23 Q. MR. LANG, I WANT TO TURN BACK TO THE PRELIMINARY  
02:16:18 24 INJUNCTION THAT MR. SILBERT ASKED YOU ABOUT, IF YOU CAN GO TO  
02:16:22 25 EXHIBIT 7558, PLEASE.

02:16:30 1

A. SURE.

02:16:31 2

Q. WHAT WAS THE DATE OF THAT INJUNCTION?

02:16:36 3

A. IT LOOKS LIKE IT WAS JUNE 6, 2003.

02:16:42 4

Q. AND AFTER THE JUNE 6, 2003, INJUNCTION, WHAT HAPPENED AS

02:16:47 5

PART OF THE RESOLUTION OF THE LAWSUIT?

02:16:50 6

A. (REDACTED)

02:17:08 7

Q. SO WAS IT -- WAS THE SETTLEMENT AGREEMENT BETWEEN HUAWEI

02:17:14 8

AND CISCO FOR THE CHANGES TO THE CLI, WAS THAT AGREED TO BEFORE

02:17:18 9

OR AFTER THE PRELIMINARY INJUNCTION?

02:17:21 10

A. WELL, I BELIEVE IT WAS AFTER, I MEAN, IT WAS SEPTEMBER OF

02:17:26 11

2003.

02:17:26 12

Q. SO HUAWEI, DID THEY AGREE TO CHANGE THEIR CLI AFTER THIS

02:17:30 13

PRELIMINARY INJUNCTION CAME DOWN?

02:17:31 14

A. YES.

02:17:33 15

MR. JAFFE: NO FURTHER QUESTIONS.

02:17:34 16

THE COURT: MR. SILBERT, ANYTHING ELSE?

02:17:36 17

MR. SILBERT: NOTHING FURTHER.

02:17:37 18

THE COURT: THANK YOU.

02:17:38 19

AND MAY MR. LANG BE EXCUSED?

02:17:40 20

MR. LANG, THANK YOU FOR YOUR TESTIMONY. YOU ARE FREE TO

02:17:43 21

GO.

02:18:04 22

MR. NELSON, YOUR NEXT WITNESS?

02:18:07 23

MR. NELSON: YES, YOUR HONOR. AT THIS POINT CISCO

02:18:09 24

CALLS DOCTOR KEVIN ALMEROTH TO THE STAND.

02:18:12 25

THE COURT: OKAY. AND JUST SO -- DR. ALMEROTH, IF

02:18:14 1 YOU WOULD COME FORWARD TO THE WITNESS STAND, PLEASE AND STAND  
02:18:17 2 TO BE SWORN.

02:18:18 3 AND MR. NELSON, WE ARE GOING TO TAKE A BREAK IN ABOUT 10  
02:18:21 4 OR 12 MINUTES, SO I WILL INTERRUPT WHAT WILL BE THE  
02:18:24 5 INTRODUCTION, NO DOUBT, BECAUSE SEE HAVE ALL BEEN HERE FOR A  
02:18:29 6 COUPLE OF HOURS.

02:18:30 7 MR. NELSON: UNDERSTOOD. I VERY MUCH UNDERSTAND.

02:18:31 8 SO THERE'S TWO THINGS, YOUR HONOR, IT'S GOING TO TAKE A  
02:18:34 9 LITTLE WHILE BECAUSE THERE'S SOME BINDERS AND THINGS.

02:18:37 10 THE COURT: I'M SURE THERE ARE.

02:18:38 11 MR. NELSON: THEN THERE'S ALSO THE STIPULATION THAT I  
02:18:40 12 WOULD LIKE TO READ.

02:18:40 13 THE COURT: OKAY, LET'S GET DR. ALMEROTH SWORN SO HE  
02:18:44 14 CAN SIT DOWN.

02:18:46 15 **(PLAINTIFF'S WITNESS, KEVIN ALMEROTH, WAS SWORN.)**

02:18:48 16 THE WITNESS: YES, MA'AM, I DO.

02:18:51 17 THE CLERK: THANK YOU, SIR.

02:18:59 18 MR. NELSON: CAN I READ THE STIPULATION FIRST?

02:19:01 19 THE COURT: ABSOLUTELY.

02:19:02 20 MR. NELSON: OKAY.

02:19:10 21 SO SOMETIMES THE LAWYERS AGREE TO FACTS IN A CASE, SO I'M  
02:19:14 22 JUST GOING TO READ TO YOU AN AGREEMENT THAT WE MADE HERE, AND I  
02:19:18 23 WILL TRY TO READ IT SLOWLY SO THAT YOU -- AND WE CAN GET IT IN  
02:19:22 24 THE RECORD.

02:19:23 25 SO ON FEBRUARY 13TH, 2015, ARISTA FILED AN ANSWER TO

02:19:29 1 CISCO'S ORIGINAL COMPLAINT THAT ADMITTED THAT ARISTA USES THE  
02:19:35 2 508 IOS COMMAND EXPRESSIONS INCLUDED IN EXHIBIT 1 TO CISCO'S  
02:19:41 3 COMPLAINT.

02:19:44 4 ON AUGUST 10TH, 2015, ARISTA FILED AN ANSWER TO CISCO'S  
02:19:50 5 SECOND AMENDED COMPLAINT THAT DENIES THAT ARISTA USES THE 508  
02:19:56 6 IOS COMMAND EXPRESSIONS INCLUDED IN EXHIBIT 1 TO CISCO'S SECOND  
02:20:01 7 AMENDED COMPLAINT.

02:20:04 8 AND EXHIBIT 1 CONTAINS TWO COMMANDS NAMED "TERMINAL  
02:20:11 9 LENGTH" AND "SHOW USER" THAT CISCO HAS WITHDRAWN FROM THE LIST.

02:20:18 10 THAT EXHIBIT 1 TO THE COMPLAINT, SO THAT WE CAN IDENTIFY  
02:20:21 11 IT FOR THE CASE, IS ACTUALLY GOING TO BE MARKED FOR YOU AND  
02:20:25 12 ADMITTED AS TRIAL EXHIBIT 4821.

02:20:35 13 THE COURT: AND WOULD YOU LIKE TO MOVE THAT EXHIBIT  
02:20:37 14 INTO EVIDENCE NOW SO WE DON'T FORGET?

02:20:39 15 MR. NELSON: THAT'S A VERY GOOD POINT, YOUR HONOR.

02:20:41 16 AND AT THIS POINT I WOULD LIKE TO MOVE EXHIBIT 4821 INTO  
02:20:45 17 EVIDENCE, YOUR HONOR.

02:20:45 18 THE COURT: NO OBJECTION?

02:20:47 19 MR. VAN NEST: NO OBJECTION, YOUR HONOR.

02:20:48 20 THE COURT: IT WILL BE ADMITTED.

02:20:50 21 (PLAINTIFF'S EXHIBIT 4821 WAS ADMITTED INTO EVIDENCE.)

02:20:50 22 MR. NELSON: AND WE WILL HAVE THAT PREPARED.

02:20:52 23 THE COURT: THAT WOULD BE FINE, THANK YOU.

02:20:54 24 MR. NELSON: OKAY. THANK YOU.

02:21:55 25 THE COURT: OKAY. AND YOU MAY BEGIN.

02:22:01 1  
02:22:02 2  
02:22:02 3  
02:22:06 4  
02:22:07 5  
02:22:08 6  
02:22:10 7  
02:22:10 8  
02:22:15 9  
02:22:19 10  
02:22:25 11  
02:22:27 12  
02:22:31 13  
02:22:37 14  
02:22:40 15  
02:22:46 16  
02:22:49 17  
02:22:49 18  
02:22:51 19  
02:22:54 20  
02:23:00 21  
02:23:03 22  
02:23:07 23  
02:23:10 24  
02:23:13 25

MR. NELSON: THANK YOU, YOUR HONOR.

**DIRECT EXAMINATION**

BY MR. NELSON:

Q. GOOD AFTERNOON, DR. ALMEROTH.

A. GOOD AFTERNOON.

Q. COULD YOU GO AHEAD AND PLEASE INTRODUCE YOURSELF TO THE JURY?

A. SURE. MY NAME IS KEVIN ALMEROTH. I'M A PROFESSOR IN THE DEPARTMENT OF COMPUTER SCIENCE AT UC SANTA BARBARA. I HAVE BEEN THERE SINCE 1997 WHEN I GRADUATED WITH A PHD FROM GEORGIA TECH IN ATLANTA, GEORGIA.

BEFORE MY PHD IN 1997, I HAD EARNED A MASTER'S DEGREE IN 1994. AND THEN WORKING BACKWARDS, A BACHELOR'S DEGREE IN COMPUTER SCIENCE IN 1992.

Q. NOW HAVE WE WORKED TO PREPARE A PRESENTATION TO HELP WITH YOUR TESTIMONY AND SHOW THE JURY SOME THINGS DURING YOUR TESTIMONY?

A. YES, SIR, WE HAVE.

Q. OKAY. SO I HAVE THOSE DEMONSTRATIVES HERE.

CAN I HAVE THOSE, MR. FISHER.

ALL RIGHT, SIR, SO YOU'VE COVERED SOME OF THIS. THERE'S A COUPLE OF THINGS I WOULD LIKE TO POINT OUT HERE.

SO CAN YOU TELL US WHAT YOUR CURRENT RESPONSIBILITIES ARE? YOU SAID YOU WERE AT UCSB, CORRECT?

A. YES, I'M A PROFESSOR THERE. AND IN TERMS OF

02:23:16 1 RESPONSIBILITIES, WHAT A FACULTY MEMBER DOES THESE DAYS, IT'S  
02:23:20 2 REALLY A COMBINATION OF TEACHING AND RESEARCH AND THEN ALSO  
02:23:25 3 SERVICE.

02:23:25 4 SO FROM A TEACHING PERSPECTIVE, I TEACH UNDERGRADUATE  
02:23:28 5 CLASSES, I TEACH UNDERGRADUATE CLASSES IN NETWORKING, I ALSO  
02:23:31 6 TEACH GRADUATE STUDENTS AND MENTOR STUDENTS TO HELP THEM GET  
02:23:36 7 THEIR MASTER'S IN PHD.

02:23:39 8 AND THEN IN TERMS OF RESEARCH, FOR THE STUDENTS WHO ARE  
02:23:42 9 GETTING THEIR MASTER'S OR PHD, I SUPERVISE WHAT THEY DO. THEY  
02:23:45 10 WILL WORK ON PROJECTS AND THEY WILL PUBLISH PAPERS. WE WILL GO  
02:23:48 11 TO CONFERENCES AND PRESENT RESULTS. AND ULTIMATELY, THEY GET  
02:23:52 12 THEIR ADVANCED DEGREE AND MOVE ON.

02:23:54 13 IN TERMS OF SERVICE, THAT'S PROBABLY THE BORING PIECE,  
02:23:59 14 THAT'S WHERE I SIT ON JOURNAL EDITORIAL BOARDS AND WE REVIEW  
02:24:03 15 PAPERS AND DETERMINE WHICH ONES ARE TECHNICALLY CORRECT AND  
02:24:06 16 THEN SEE THOSE PUBLISHED IN TECHNICAL JOURNALS

02:24:09 17 Q. SO YOU MENTIONED NETWORKING? WHAT KIND OF COURSES DO YOU  
02:24:14 18 TEACH IN NETWORKING?

02:24:15 19 A. RIGHT. SO AT THE UNDERGRADUATE LEVEL, I TEACH NETWORKING  
02:24:19 20 SEARCH CLASSES ARRANGED ACCORDING TO A PROTOCOL STAT. SO FROM  
02:24:24 21 THE PHYSICAL LAYER IN DEALING WITH PROTOCOLS LIKE WI-FI AND THE  
02:24:29 22 DATA LINK LAYERS TO IP AND TCP, HTTP FOR WEB TRAFFIC.

02:24:34 23 IN FACT, ON THE FIRST DAY, I PUT UP A SLIDE AND IT HAS  
02:24:38 24 ACRONYMS ALL OVER IT, AND I SAY OKAY, BY THE END OF THIS CLASS  
02:24:41 25 YOU WILL UNDERSTAND WHAT ALL OF THESE ACRONYMS MEAN. TCP IP,

02:24:47 1 HTTP, DNS, I MEAN, IT'S PRETTY CONFUSING, BUT USUALLY BY THE  
02:24:53 2 END, THEY GET IT.

02:24:55 3 Q. SO ON HERE, IF IT WE LOOK AT SLIDE 1, IT SAYS YOU'VE  
02:25:01 4 RECEIVED NUMEROUS TEACHING AWARDS; DO YOU SEE THAT?

02:25:03 5 A. YES.

02:25:04 6 Q. SO CAN YOU TELL US ABOUT SOME OF THE THOSE?

02:25:07 7 A. SURE, THE DEPARTMENT OFFERS A TEACHING AWARD AND IT'S  
02:25:10 8 VOTED ON BY THE STUDENTS EACH YEAR, AND I'VE WON THAT FOUR OR  
02:25:14 9 FIVE TIMES.

02:25:15 10 AND THEN THERE'S ALSO A UNIVERSITY-WIDE AWARD THAT COVERS  
02:25:18 11 ALL OF THE FACULTY AND INSTRUCTORS, AND I WON THAT AWARD AS  
02:25:22 12 WELL.

02:25:22 13 Q. AND IT ALSO SAYS IT IEEE FELLOW. CAN YOU EXPLAIN WHAT  
02:25:29 14 THAT IS?

02:25:31 15 A. THAT'S THE INSTITUTE OF ELECTRICAL AND ELECTRONICS  
02:25:34 16 ENGINEERS. IT'S BEEN MENTIONED THIS WEEK IN TERMS OF WRITING  
02:25:39 17 STANDARDS. I THINK WE ALSO HEARD THE TERM A CISCO FELLOW.  
02:25:43 18 IT'S VERY SIMILAR.

02:25:44 19 AN IEEE FELLOW IS THE TOP GRADE THAT YOU CAN EARN, AND  
02:25:48 20 IT'S FOR DISTINGUISHED CONTRIBUTIONS IN THE FIELD. SO  
02:25:51 21 SOMETHING LESS THAN ONE PERCENT OF THE ENTIRE MEMBERSHIP IS  
02:25:54 22 ELECTED TO THAT GRADE.

02:25:55 23 Q. NOW, CAN YOU DESCRIBE FOR US SOME OF YOUR RESEARCH  
02:25:59 24 INTERESTS THAT OF HAD OVER THE YEARS?

02:26:00 25 A. SURE.

1 I MEAN, I REALLY FIRST STARTED DOING RESEARCH WHEN I  
2 STARTED GRADUATE SCHOOL IN 1992. AND TO PUT SOME CONTEXT,  
3 THAT'S ABOUT THE TIME THAT THE WEB REALLY GOT STARTED. AND  
4 WHAT WE WERE LOOKING AT AT THAT TIME WAS HOW TO GIVE CUSTOMERS  
5 OR WATCHERS A KIND OF INDIVIDUALIZED EXPERIENCE OVER CABLE TV.  
6 WANTED TO TALK ABOUT DOING VIDEO ON DEMAND.

7 IRONICALLY, ONE OF THE FIRST THINGS THAT WE WORKED ON WAS  
8 TO PUT SOME MEMORY INTO AN AT THE TIME TOP BOX SO THAT YOU  
9 COULD PAUSE YOUR CABLE TV.

10 AND THIS WAS IN 1992. I THINK WE TAKE IT AS A PRETTY  
11 COMMON SERVICE TODAY WITH THINGS LIKE TIVO OR JUST WHAT YOU CAN  
12 DO WITH YOUR TV'S TO PAUSE A LIVE VIDEO. SO I WAS VERY  
13 INTERESTED IN HOW TO DO VIDEO IN CABLE SYSTEMS.

14 ULTIMATELY, AS THE INTERNET STARTED TO TAKE OFF, WE LOOKED  
15 AT MOVING THESE SERVICES TO THE INTERNET. HOW DO YOU DO VIDEO,  
16 HOW DO YOU DO VOICE CALLS.

17 AND WHAT WE REALIZED IS THE INTERNET WAS VERY SLOW IN THE  
18 EARLY 90'S, AND SO WE HAD TO LOOK AT TECHNOLOGY IN ROUTERS TO  
19 TRY AND IMPROVE THE DELIVERY OF THAT MUCH DATA. AND NOW WE  
20 TAKE IT FOR GRANTED.

21 I THINK I HEARD EARLIER THIS WEEK THAT THERE ARE LINKS IN  
22 THE INTERNET THAT SUPPORT A BILLION BITS PER SECOND, TERABITS  
23 PER SECOND, FAST ENOUGH TO SEND OF LIBRARY OF CONGRESS VERY,  
24 VERY QUICKLY.

25 BUT IN 1992, IT WAS 45 MEGABITS PER SECOND. SO THERE



02:27:34 1 REALLY HAS BEEN ASTRONOMICAL INCREASE IN THE CAPACITY OF THE  
02:27:39 2 INTERNET AND WHAT ROUTERS CAN DO AND BE ABLE TO DELIVER THINGS  
02:27:43 3 LIKE VIDEO THROUGH THE NETWORK.

02:27:44 4 Q. HAVE YOU EVER WRITTEN ANY SOFTWARE YOURSELF?

02:27:47 5 A. I HAVE. YOU KNOW, I STARTED IN 97 AND I CONSIDER MYSELF  
02:27:52 6 SORT OF ON THE CUSP OF FACULTY WHO DO WHAT'S CALLED "SYSTEMS  
02:27:58 7 RESEARCH."

02:27:58 8 SO INSTEAD OF THE PROVERBIAL SITTING IN AN IVORY TOWER  
02:28:02 9 WRITING THESE PAPERS THAT DON'T REALLY HAVE AN IMPACT, FACULTY  
02:28:08 10 OF MY GENERATION TRIED TO BUILD THE SYSTEMS THAT THEY WERE  
02:28:11 11 WORKING ON, NOT JUST, HERE'S AN IDEA OF HOW TO DO VIDEO ON  
02:28:15 12 DEMAND, BUT LET ME TRY AND PROTOTYPE ON IT AND COME UP WITH  
02:28:19 13 SOMETHING I CAN SHOW TO COMPANIES.

02:28:20 14 IT HELPS MY STUDENTS, RIGHT. WHEN THEY DO SOMETHING LIKE  
02:28:23 15 THIS, THEY CAN GO TO A CISCO OR A MICROSOFT AND THEY CAN SAY  
02:28:27 16 LOOK I'VE BUILT SOMETHING LIKE THIS, AND IT'S PRETTY  
02:28:30 17 IMPRESSIVE.

02:28:31 18 Q. AND HAVE YOU, IN CONNECTION WITH YOUR RESEARCH OR SOME OF  
02:28:34 19 YOUR OTHER WORK THAT YOU DESCRIBED, HAVE ANY EXPERIENCE WITH  
02:28:37 20 USER INTERFACES?

02:28:38 21 A. YES. AS THE WEB CAME ALONG, AND SINCE I STARTED WORK  
02:28:43 22 BEFORE THE WEB, WE HAD TO DESIGN OUR OWN INTERFACES. AS THE  
02:28:47 23 WEB CAME ALONG, WE COULD START TO USE THE CAPABILITIES OF THE  
02:28:51 24 WEB TO DESIGN USER INTERFACES.

02:28:53 25 I'M ALSO VERY FAMILIAR WITH ALL OF THE INTERFACES THAT

02:28:56 1 EXISTED BACK INTO THE 80'S, COMMAND-LINE INTERFACES, AND GUI'S,  
02:29:03 2 DROP-DOWN MENUS AND THINGS LIKE THAT.

02:29:06 3 SO I'VE HAD A TREMENDOUS AMOUNT OF USER INTERFACES BOTH IN  
02:29:11 4 USING THEM AND DESIGNING THEM INTO DIFFERENT SERVICES AND  
02:29:13 5 PRODUCTS.

02:29:14 6 Q. NOW, IF WE CAN GO FORWARD, HAVE YOU BEYOND THE RESEARCH  
02:29:19 7 THAT YOU HAVE TALKED ABOUT, HAVE YOU HAD ANY INDUSTRY  
02:29:21 8 EXPERIENCE?

02:29:22 9 A. I HAVE.

02:29:22 10 AS I MENTIONED, ONE OF THE KEY THINGS THAT WE TRY AND DO  
02:29:25 11 IS SEE OUR RESEARCH EXIST IN INDUSTRY IN TERMS OF PRODUCTS.

02:29:31 12 AND ONE OF THE PLACES THAT'S BEEN PARTICULARLY FRUITFUL  
02:29:36 13 THIS TERMS OF THOSE RELATIONSHIPS IS THE INTERNET ENGINEERING  
02:29:38 14 TASK FORCE. THAT'S ANOTHER GROUP THAT I THINK HAS BEEN  
02:29:42 15 DISCUSSED EARLIER THIS WEEK.

02:29:45 16 AND PART OF WHAT THEY DO IS WRITE THINGS CALLED RFC'S, IT  
02:29:51 17 STANDS FOR REQUESTS FOR COMMENTS, BUT IT'S REALLY AN INTERNET  
02:29:55 18 STANDARD. SOME OF THE RFC'S, RFC791 ON THE INTERNET PROTOCOL,  
02:30:01 19 IP, RFC792 ON TCP WAS MENTIONED EARLIER THIS WEEK.

02:30:04 20 AND SO I'VE WRITTEN RFC'S BOTH IN TERMS OF NEW PROTOCOLS  
02:30:10 21 THAT CAN BE IMPLEMENTED IN ROUTERS AND THEN ALSO DESCRIBING HOW  
02:30:15 22 ROUTERS IMPLEMENT CERTAIN TECHNOLOGY AS WELL.

02:30:18 23 AS PART OF THAT WORK WITH THE IETF, I'VE COLLABORATED WITH  
02:30:23 24 A BUNCH OF DIFFERENT COMPANIES. SO FOR EXAMPLE, I WROTE A  
02:30:26 25 PROTOCOL WITH MY COAUTHORS CALLED THE *MULTICAST ROUTE*

02:30:30 1 MONITORING PROTOCOL. IT WAS FUNCTIONALITY TO BE BUILT INTO A  
02:30:33 2 ROUTER.

02:30:34 3 THE INITIAL AUTHORS ON THAT WERE WITH CISCO, BUT  
02:30:37 4 ULTIMATELY THE TWO AUTHORS I COLLABORATED WITH WENT TO REDBACK  
02:30:42 5 NETWORKS AND PROCKET. THERE'S OTHER ROUTING COMPANIES HERE,  
02:30:48 6 JUNIPER, I'VE COLLABORATED WITH. THERE'S SORT OF -- LOCKHEED  
02:30:51 7 MARTIN IS ON THIS LIST. THAT WAS AN INTERESTING PROJECT.

02:30:55 8 ABOUT 15 YEARS AGO I GOT A CALL WHERE THEY WANTED TO SEE  
02:31:01 9 IF I WOULD HELP THEM DEVELOP THE NEXT GENERATION INTERNET FOR  
02:31:04 10 THE MILITARY. AND IT WAS PARTICULARLY FASCINATING BECAUSE IT  
02:31:09 11 INCLUDED THINGS LIKE SPACE-BASED ROUTERS, SO THE ROUTERS WOULD  
02:31:13 12 ACTUALLY BE LAUNCHED INTO SPACE.

02:31:16 13 THERE'S OBVIOUSLY A TREMENDOUS AMOUNT OF SECURITY, SUPPORT  
02:31:19 14 FOR VIDEO WHICH IS REALLY HOW THEY CAME TO ME, SUPPORT FOR  
02:31:22 15 MOBILE COMPUTERS.

02:31:24 16 AND WHAT WAS INTERESTING ABOUT THAT EFFORT IS YOU CAN  
02:31:26 17 IMAGINE HOW CHALLENGING NETWORKING IS IN GENERAL, BUT TO DO SO  
02:31:32 18 IN A BATTLEFIELD, OR WHAT WE WERE ALSO INTERESTED IN IS  
02:31:35 19 DISASTER RECOVERY.

02:31:36 20 WHEN A HURRICANE BLOWS THROUGH AND THERE'S NO  
02:31:38 21 INFRASTRUCTURE, HOW YOU CAN PUT UP THESE PORTABLE ROUTERS THAT  
02:31:43 22 ARE POWERED BY SOLAR POWER AND BUILD A NETWORK TO RESTORE  
02:31:47 23 COMMUNICATION TO HELP THE INFRASTRUCTURE BACK.

02:31:50 24 SO I'VE HAD A LOT OF COLLABORATIONS WITH THE INDUSTRY OVER  
02:31:53 25 THE YEARS, VERY MUCH FOCUSED IN HOW TO PROVIDE SERVICES OVER

02:31:57 1 THE INTERNET THROUGH ROUTERS.

02:31:58 2 Q. JUST A COUPLE MORE AND THEN I CAN GET HIM QUALIFIED AND  
02:32:03 3 THEN --

02:32:03 4 THE COURT: SURE.

02:32:04 5 MR. NELSON: THANK YOU, YOUR HONOR.

02:32:04 6 Q. SO DO YOU HAVE ANY EXPERIENCE WITH PLAGIARISM DETECTION?

02:32:09 7 A. I DO. IT'S KIND OF THE CULMINATION OF RESEARCH THAT ONE  
02:32:14 8 STUDENT WAS INTERESTED IN WORKING ON AND SOME CHALLENGES THAT  
02:32:18 9 OTHER FACULTY IN THE POLITICAL SCIENCE DEPARTMENT WERE HAVING.

02:32:21 10 AND WHAT WE WERE STARTING TO SEE WAS THAT STUDENTS WOULD  
02:32:25 11 COPY SECTIONS FROM WIKIPEDIA AS PART OF SUBMITTING THEIR  
02:32:30 12 PAPERS.

02:32:30 13 AND SO THE SOFTWARE THAT WE DEVELOPED WOULD PROCESS THEIR  
02:32:34 14 PAPERS, WOULD TAKE SNIPPETS OF THE PAPER, SUBMIT IT TO GOOGLE,  
02:32:39 15 AND THEN BASED ON THE RESULTS THAT WE GOT FROM GOOGLE, WE COULD  
02:32:46 16 SEE IF THERE ANY MATCHES. AND IF WE GOT ENOUGH MATCHES, THEN  
02:32:50 17 WE WOULD PURSUE THE CASE FOR PLAGIARISM.

02:32:52 18 NOW WHAT WAS INTERESTING ABOUT THAT WAS WE RAN SOME TESTS  
02:32:56 19 AT UCSB. SO IN SOME INSTANCES WE WOULD TELL STUDENTS THAT  
02:33:02 20 PLAGIARISM WAS ILLEGAL AND THEY SHOULDN'T DO IT, AND HERE'S  
02:33:05 21 WHAT IT IS.

02:33:06 22 IN OTHER INSTANCES WE SAID, YOU ARE NOT ALLOWED TO  
02:33:09 23 PLAGIARIZE, AND WE ARE GOING TO USE SOFTWARE TO TRY AND SEE IF  
02:33:12 24 YOU CHEAT.

02:33:12 25 AND THEN IN THE FINAL INSTANCE WE SAID, PLAGIARISM IS

02:33:16 1 ILLEGAL, WE ARE GOING TO USE SOFTWARE, AND HERE'S HOW THE  
02:33:19 2 SOFTWARE WORKS. BECAUSE WHAT WE WANTED TO UNDERSTAND IS, IF  
02:33:23 3 STUDENTS WERE MOTIVATED TO REALLY JUST CIRCUMVENT THE RULES  
02:33:27 4 ENOUGH, STILL PLAGIARIZE, BUT SORT OF TRY AND GET AROUND THAT  
02:33:31 5 PARTICULAR SYSTEM.

02:33:33 6 SO IT WAS REALLY A, LOOKING AT THE PSYCHOLOGY OF WHAT THE  
02:33:36 7 STUDENTS WERE TRYING TO DO AND THEN SEEING THE RESULTS OF WHAT  
02:33:39 8 THEY WERE ACTUALLY DOING.

02:33:40 9 MR. NELSON: SO YOUR HONOR, AT THIS POINT I OFFER  
02:33:42 10 DR. ALMEROOTH AS AN EXPERT IN USER INTERFACES AND NETWORKING.

02:33:47 11 MR. VAN NEST: NO OBJECTION, YOUR HONOR.

02:33:50 12 THE COURT: ALL RIGHT. HE MAY TESTIFY AS DESIGNATED.

02:33:53 13 MR. NELSON: THANK YOU, YOUR HONOR.

02:33:53 14 AND PROBABLY IT WOULD BE --

02:33:55 15 THE COURT: THIS WOULD BE A GOOD TIME FOR A BREAK.

02:33:57 16 OKAY. WE ARE GOING TO TAKE OUR FIRST BREAK. LET'S MAKE  
02:34:00 17 IT TEN MINUTES, AND I PROMISE THERE WILL BE A SECOND BREAK THIS  
02:34:03 18 AFTERNOON.

02:34:20 19 (RECESS FROM 2:34 P.M. UNTIL 2:43 P.M.)

02:43:51 20 THE COURT: PLEASE BE SEATED. WE ARE BACK ON THE  
02:43:52 21 RECORD AND ALL OF OUR JURORS ARE HERE.

02:43:54 22 MR. NELSON, WOULD YOU LIKE TO CONTINUE WITH YOUR DIRECT  
02:43:57 23 EXAM?

02:43:58 24 MR. NELSON: YES, THANK YOU, YOUR HONOR.

02:43:59 25 MAY I PROCEED?

02:44:00 1 THE COURT: YES.

02:44:01 2 MR. NELSON: THANK YOU.

02:44:08 3 Q. IF WE CAN GO TO SLIDE 4.

02:44:12 4 SO NOW, DR. ALMEROOTH, I WANT TO TALK ABOUT YOUR ASSIGNMENT  
02:44:15 5 IN THIS LITIGATION.

02:44:16 6 CAN YOU JUST BRIEFLY TELL US WHAT YOU WERE ASKED TO DO AT  
02:44:19 7 THIS STAGE OF THE GAME?

02:44:20 8 A. SURE.

02:44:21 9 FOR THIS PART OF MY TESTIMONY, I WAS ASKED TO LOOK AT  
02:44:24 10 WHETHER OR NOT THE CISCO COPYRIGHTED WORKS WERE ORIGINAL,  
02:44:29 11 WHETHER THEY WERE CREATIVE WORKS AND EXPRESSIONS, THAT WAS THE  
02:44:31 12 FIRST PART.

02:44:32 13 THE SECOND PART THEN WAS TO ANALYZE WHETHER ARISTA HAD  
02:44:36 14 COPIED THOSE COPYRIGHTED WORKS.

02:44:39 15 Q. NOW, YOU SAID FOR THIS PART, IS THERE A POSSIBILITY THAT  
02:44:43 16 THERE WOULD BE ADDITIONAL TESTIMONY AND WE MIGHT SEE YOU BACK  
02:44:47 17 NEXT WEEK?

02:44:47 18 A. YES, SIR.

02:44:48 19 Q. CAN YOU JUST BRIEFLY TELL US WHAT THAT IS?

02:44:50 20 A. SURE.

02:44:52 21 I WAS THE EXPERT HIRED BY CISCO TO OFFER MY OPINIONS ABOUT  
02:44:57 22 WHETHER THERE WAS ORIGINALITY AND COPYING. ARISTA HAD HIRED AS  
02:45:04 23 EXPERT AS WELL. WE EXCHANGED REPORTS.

02:45:06 24 I EXPECT THAT HE WILL TESTIFY NEXT WEEKS AND THEN I WILL  
02:45:10 25 COME BACK AFTER HE'S TESTIFIED AND PROVIDE RESPONSES TO SOME OF

02:45:12 1 THE THINGS THAT HE SAYS.

02:45:13 2 Q. NOW, CAN YOU JUST TELL US OR TELL THE LADIES AND GENTLEMEN  
02:45:20 3 OF THE JURY GENERALLY WHAT KIND OF MATERIALS YOU CONSIDERED  
02:45:22 4 WHAT YOU WERE DOING THE ANALYSIS?

02:45:23 5 A. CORRECT. IF YOU THINK ABOUT LOOKING AT CREATIVITY IN  
02:45:30 6 COPYING, THERE ARE A VARIETY OF MATERIALS THAT WERE AVAILABLE  
02:45:33 7 TO ME TO LOOK AT, FROM WHEN I STARTED AND WAS ATTEMPTING TO  
02:45:38 8 FORM AN OPINION ONE WAY OR THE OTHER AS TO WHETHER OR NOT THE  
02:45:43 9 COPYRIGHTED WORKS WERE ORIGINAL AND WHETHER THERE WAS COPYING.

02:45:46 10 THERE WAS THE COMPLAINT THAT WAS FILED, AND THERE ARE WHAT  
02:45:49 11 ARE CALLED INTERROGATORY RESPONSES. BOTH SIDES HAVE THE  
02:45:52 12 OPPORTUNITY TO SUBMIT WRITTEN QUESTIONS AND THEN GET RESPONSES  
02:45:55 13 FROM THE OTHER SIDE. AND SO I CAN USE THOSE AS A BASIS FOR  
02:45:59 14 FORMING MY OPINIONS.

02:46:00 15 THERE'S DOCUMENTS THAT ARE PRODUCED, SOME OF THEM GO IN AS  
02:46:04 16 EXHIBITS AND SOME OF THEM HAVE BEEN DISCUSSED BY WITNESSES.

02:46:09 17 FOR EXAMPLE, ALL THE USER MANUALS FROM ARISTA THAT ARE  
02:46:13 18 BEHIND ME. THERE'S ALSO DEPOSITION TESTIMONY. SO BEFORE THE  
02:46:16 19 WITNESSES COME TO COURT AND TESTIFY, THEIR SWORN DEPOSITIONS  
02:46:20 20 ARE TAKEN, QUESTIONS CAN BE ASKED, AND I CAN FORM OPINIONS  
02:46:23 21 BASED ON WHAT THEY HAVE TESTIFIED TO.

02:46:27 22 THERE'S PUBLICLY AVAILABLE INFORMATION, MANUALS, FOR  
02:46:30 23 EXAMPLE, AND ANY OTHER PRESS RELEASES OR DOCUMENTS THAT ARE  
02:46:36 24 PUBLICLY AVAILABLE.

02:46:37 25 THERE'S ALSO THE SWITCHES THEMSELVES. AND THERE'S THE

02:46:40 1 SOURCE CODE THAT RUNS ON THOSE SWITCHES FROM BOTH CISCO AND  
02:46:44 2 ARISTA.

02:46:45 3 AND SO I CAN LOOK AT THOSE TO SEE WHAT THE USER INTERFACE  
02:46:48 4 IS. AND THEN ALSO I CAN HAVE CONVERSATIONS, AND I'VE HAD  
02:46:52 5 CONVERSATIONS WITH CISCO EMPLOYEES, SOME OF THE ONES WHO HAVE  
02:46:58 6 TESTIFIED HERE THIS WEEK, FOR EXAMPLE.

02:47:01 7 Q. SO PROFESSOR ALMEROTH, CAN YOU JUST REMIND US GENERALLY  
02:47:05 8 WHAT TYPES OF TECHNOLOGY WE ARE DEALING WITH HERE IN THIS CASE?

02:47:08 9 A. YES. LET ME TRY TO PUT A LITTLE DIFFERENT PERSPECTIVE ON  
02:47:14 10 SOME OF WHAT I'VE HEARD IN THE COURTROOM THIS WEEK, I'VE BEEN  
02:47:17 11 IN THE COURTROOM ALL WEEK.

02:47:18 12 AND THAT IS THAT FROM THE EARLY 80'S, EVEN ACTUALLY FROM  
02:47:22 13 THE LATE 60'S WHEN THE ORIGINAL INTERNET FIRST STARTED WITH  
02:47:25 14 FOUR NODES, ONE OF WHICH BEING FROM UCSB, THE INTERNET GREW  
02:47:32 15 INTO WHAT'S SHOWN IN THIS PICTURE TODAY.

02:47:34 16 AND WHAT'S SHOWN IN THIS PICTURE IS DIFFERENT COLORS FOR  
02:47:37 17 DIFFERENT NETWORKS. AND THEY ALL CONNECT TOGETHER. SO NOW WE  
02:47:41 18 HAVE MILLIONS OF ROUTERS AND SWITCHES. THEY SERVE THE FUNCTION  
02:47:44 19 OF RECEIVING DATA IN PACKETS AND ROUTING THEM TO THEIR  
02:47:50 20 DESTINATION.

02:47:51 21 SO IF YOU ARE LOOKING AT A WEBSITE ON YOUR COMPUTER OR  
02:47:56 22 YOUR PHONE IT'S DATA THAT COMES THROUGH THE SERVER AND IS  
02:47:59 23 ROUTED THROUGH THE INTERNET SWITCHES AND NETWORKS.

02:48:02 24 SO JUST LIKE THE PHONE NETWORK WHERE YOU CAN HAVE AN AT&T  
02:48:06 25 PHONE AND YOU CAN CALL SOMEBODY ON VERIZON SO YOU CAN GO FROM



02:48:09 1 ONE NETWORK TO ANOTHER NEST. THE SAME THINGS HAPPENS IN THE  
02:48:13 2 INTERNET AND THAT'S WHY THERE ARE DIFFERENT COLORED NETWORKS  
02:48:13 3 OWNED BY DIFFERENT PROVIDERS.

02:48:17 4 AND YOU USE THE PROTOCOLS ON THE INTERNET THAT OPERATE ON  
02:48:20 5 SWITCHES AND ROUTERS TO MAKE SURE THAT COMMUNICATION TAKES  
02:48:23 6 PLACE RELIABLY AND EFFICIENTLY AND QUICKLY.

02:48:24 7 Q. SO WE'VE HEARD A FAIR AMOUNT OF LAST FEW DAYS WITH  
02:48:27 8 SWITCHES. WHERE DO THOSE FIT INTO THIS PICTURE?

02:48:31 9 A. THE SWITCHES AND ROUTERS BOTH FIT IN, IN KIND OF THE  
02:48:35 10 CROSSROADS WHERE MULTIPLE PROVIDERS WILL COME TOGETHER OR  
02:48:39 11 MULTIPLE OTHER DEVICES WILL CONNECT TOGETHER.

02:48:43 12 AND IT'S AT THAT POINT, ALMOST LIKE IN A ROAD MAP YOU COME  
02:48:45 13 TO AN INTERSECTION AND YOU CENTER TO DECIDE WHICH DIRECT YOU  
02:48:48 14 ARE GOING TO GO.

02:48:49 15 AND THESE ROUTERS AND SWITCHES USE PROTOCOLS, STANDARDIZED  
02:48:56 16 PROTOCOLS, TO MAKE THOSE DECISION AND ROUTE THE PACKETS OR  
02:49:00 17 SWITCH THE PACKETS IN THE DIRECTION THEY ARE SUPPOSED TO GO.

02:49:03 18 Q. SO HERE IN SLIDE 6 YOU HAVE A NETWORK ENGINEER DOWN THERE  
02:49:07 19 AT THE LEFT, IT LOOKS LIKE HE'S AT THE MOVIE THEATRE OR  
02:49:10 20 SOMETHING. CAN YOU JUST EXPLAIN US HOW HE FITS INTO THE  
02:49:13 21 PREDICT?

02:49:13 22 A. SURE.

02:49:14 23 WHAT THIS IS TRYING TO DEMONSTRATE IS THAT THESE ROUTERS  
02:49:19 24 AND SWITCHES ARE COMPLEX PIECES OF HARDWARE AND THEY HAVE  
02:49:21 25 SOFTWARE THAT RUNS ON THEM. AND THEY NEED TO BE CONFIGURED.

02:49:25 1 THEY NEED TO BE INSTRUCTED ON WHAT KINDS OF DECISIONS TO MAKE.

02:49:30 2 FOR EXAMPLE, SHOULD THE PACKETS BE SWITCHED ON THE  
02:49:33 3 SHORTEST PATH OR THE FASTEST PATH OR THE PATH WITH THE LEAST  
02:49:37 4 CONGESTION. THEY MAKE SIMILAR DECISIONS TO THE DECISIONS WE  
02:49:41 5 MAKE WHEN WE GO FROM POINT A TO POINT B DURING RUSH HOUR OR  
02:49:46 6 NOT.

02:49:46 7 AND SO THOSE ROUTERS AND SWITCHES HAVE TO BE CONFIGURED,  
02:49:50 8 AND USUALLY IT'S BY SOMEBODY SITTING AT A COMPUTER.

02:49:54 9 AND THE WAY THAT THE TECHNOLOGY WAS DEVELOPED IS YOU DON'T  
02:49:56 10 HAVE TO BE AT THE SWITCH OR ROUTER TO CONFIGURE IT, TO GIVE IT  
02:50:00 11 ITS INSTRUCTIONS OR DECIDE HOW IT SHOULD OPERATE. YOU CAN DO  
02:50:04 12 THAT REMOTELY OVER A NETWORK.

02:50:07 13 IN FACT, IF I HAD A COMPUTER HERE AND IT WAS CONNECTED TO  
02:50:09 14 THE INTERNET, I WOULD POTENTIALLY BE ABLE TO CONNECT TO ANY  
02:50:13 15 ROUTER IN THE ENTIRE WORLD AND CONFIGURE IT.

02:50:15 16 LUCKILY, THERE'S SECURITY PROTOCOLS AND FIREWALLS THAT  
02:50:19 17 PREVENT ME OR ANYONE FROM DOING IT, BUT IF YOU HAVE THE RIGHT  
02:50:23 18 SECURITY, YOU CAN LOG IN TO THE ROUTER AND THEN YOU CAN ISSUE  
02:50:28 19 COMMANDS TO THAT ROUTER TO CHANGE ITS CONFIGURATION TO MAKE IT  
02:50:32 20 DO SOMETHING DIFFERENT, OR TO SEE INFORMATION ABOUT HOW ITS  
02:50:36 21 OPERATING OR WHAT IT'S DOING.

02:50:38 22 Q. SO WE'VE HEARD A FAIR AMOUNT ABOUT USER INTERFACES SO  
02:50:43 23 FAR THIS WEEK.

02:50:44 24 SO CAN YOU JUST EXPLAIN TO US A BIT ABOUT THE DIFFERENT  
02:50:47 25 TYPES OF USER INTERFACES, PLEASE.

02:50:50 1 A. SURE.

02:50:50 2 AT LEAST THREE OF THE TYPES WOULD BE GRAPHICAL USER  
02:50:53 3 INTERFACES, THOSE ARE PRETTY COMMON TODAY. NOT AS COMMON, BUT  
02:50:58 4 THEY CERTAINLY EXISTED IN THE LATE 80'S.

02:51:01 5 THERE'S MENU-DRIVEN INTERFACES WHICH CAN BECOME QUITE  
02:51:05 6 TEDIOUS, YOU PULL DOWN THE MENU AND THAT'S ONE OPTION AND THEN  
02:51:09 7 YOU MOVE OVER TO SELECT ANOTHER ONE. AND THEN RIGHT BEFORE YOU  
02:51:13 8 GET TO WHAT YOU WANT TO SELECT THE WHOLE THING DISAPPEARS AND  
02:51:15 9 YOU HAVE TO START OVER.

02:51:17 10 OR THERE ARE COMMAND-LINE INTERFACES WHICH ARE MUCH LESS  
02:51:21 11 INTUITIVE, BUT ARE ALSO MUCH MORE POWERFUL. YOU CAN DO THINGS  
02:51:25 12 VERY QUICKLY WITH JUST A FEW KEY STROKES, IN WHICH CASES, BUT  
02:51:30 13 THEY ARE OFTEN PREFERRED BY PEOPLE WHO SPEND A GOOD PORTION OF  
02:51:34 14 THERE LIVES SITTING AT A COMPUTER TRYING TO CONFIGURE SWITCHES  
02:51:38 15 AND ROUTERS AROUND THE WORLD.

02:51:39 16 Q. AND IN TERMS OF THE ANALYSIS THAT YOU DID IN THIS CASE,  
02:51:45 17 WHICH OF THE TYPES OF THESE USER INTERFACES IS RELEVANT, AT  
02:51:49 18 ISSUE, RATHER?

02:51:50 19 A. THE ONE THAT'S RELEVANT IS A COMMAND-LINE INTERFACE. IT'S  
02:51:54 20 PROBABLY THE MOST BORING IN TERMS OF VISUAL APPEAL, BUT IT ALSO  
02:52:01 21 IS ONE OF THE MORE POWERFUL INTERFACES IN TERMS OF WHAT I SAID,  
02:52:07 22 ITS FLEXIBILITY AND ABILITY TO COMMUNICATE INFORMATION.

02:52:10 23 SO THAT'S WHAT IS SHOWN ON THIS DEMONSTRATIVE. NOW ON THE  
02:52:13 24 SCREEN, YOU SEE PART OF THE COMMAND-LINE INTERFACE DISPLAY FROM  
02:52:17 25 A CISCO SWITCH.

02:52:19 1 Q. NOW, BASED UPON YOUR REVIEW THAT YOU TALKED ABOUT IN THIS  
02:52:23 2 CASE, DO YOU HAVE AN UNDERSTANDING OF WHETHER THE DECISION TO  
02:52:26 3 USE A COMMAND-LINE INTERFACE AT CISCO WAS MADE?

02:52:29 4 A. I DO.

02:52:30 5 Q. AND WHEN WAS THAT?

02:52:31 6 A. THAT WAS IN THE LATE 80'S OR THE MID TO LATE 80'S, IN THE  
02:52:36 7 '86 TIMEFRAME.

02:52:37 8 Q. NOW, FIRST THING YOU SAID THAT YOU SAID YOU WERE ASKED TO  
02:52:46 9 DO IS TO ANALYZE CISCO'S -- WHETHER THERE WAS ORIGINALITY AND  
02:52:50 10 CREATIVITY, RIGHT?

02:52:51 11 A. YES.

02:52:51 12 Q. OKAY. AND ORIGINALITY AND CREATIVITY, WERE THERE ANY  
02:52:59 13 SPECIFIC USER INTERFACES THAT YOU WERE ASKED TO ANALYZE?

02:53:01 14 A. YES, THE USER INTERFACE. IN FACT, IF WE COULD GO BACK TO  
02:53:04 15 THE PREVIOUS SLIDE UP IN THE UPPER LEFT, IT WAS THE USER  
02:53:08 16 INTERFACES FOR IOS, IOS XE, IOS XR, AND NX-OS, THOSE FOUR USER  
02:53:16 17 INTERFACES OF THE CISCO PRODUCTS.

02:53:18 18 Q. NOW, WERE THERE ANY PARTICULAR ASPECTS OF THOSE USER  
02:53:23 19 INTERFACES THAT YOU WERE REVIEWING?

02:53:26 20 A. YES. IF YOU GO BACK TO SLIDE 9, THOSE WERE THE MULTIWORD  
02:53:31 21 COMMANDS WHICH WE'VE HEARD A LOT ABOUT THIS WEEK. THE SAME FOR  
02:53:37 22 THE OUTPUTS, THE HELP DESCRIPTIONS, THE MODES AND PROMPTS AS  
02:53:41 23 WELL AS THE USER DOCUMENTATION.

02:53:43 24 Q. OKAY. NOW, IN TERMS OF YOUR ANALYSIS IN EVALUATING  
02:53:54 25 ORIGINALITY AND CREATIVITY, WHAT WAS THE TIMEFRAME FOR THAT?

02:53:56 1 A. YOU HAVE TO CONSIDER THE CREATIVITY AT THE TIME OF  
02:53:59 2 CREATION. IT'S NOT LIKE WE SIT HERE TODAY AND SAY, WELL, WHAT  
02:54:04 3 ABOUT THIS COMMAND, DOES THAT SOUND LIKE A CREATIVE COMMAND.  
02:54:09 4 YOU HAVE TO PLACE YOURSELF WITHIN THE TIMEFRAME OF WHEN THE  
02:54:13 5 COMMAND WAS CREATED.

02:54:14 6 SO IN SOME INSTANCES THAT'S AS EARLY AT 1986, SOME  
02:54:18 7 COMMANDS WERE CREATED OVER THE INTERVENING YEARS, BUT THAT'S  
02:54:21 8 THE TIMEFRAME. I MEAN, THAT'S PRE-WEB, THAT'S IN SOME CASES  
02:54:26 9 WHERE YOU HAD DIAL UP MODEMS AND BULLETIN BOARDS, AND THAT WAS  
02:54:30 10 REALLY THE EXTENT OF THE INTERNET THAT WAS WIDELY AVAILABLE TO  
02:54:33 11 THE PUBLIC.

02:54:34 12 Q. NOW LET'S GO TO THE FIRST ELEMENT YOU TALKED ABOUT,  
02:54:39 13 MULTIWORD COMMANDS.

02:54:40 14 SO CAN YOU JUST EXPLAIN TO US WHAT MULTIWORD COMMANDS ARE  
02:54:44 15 IN CISCO'S CLI USER INTERFACE?

02:54:49 16 A. SURE. IN TERMS OF THE WORDS MULTIWORD COMMAND, IT'S  
02:54:52 17 PRETTY STRAIGHTFORWARD. IT'S A COMMAND OR AN INSTRUCTION  
02:54:56 18 THAT'S COMPOSED OF MULTIPLE WORDS.

02:54:58 19 AS PART OF THIS DEMONSTRATIVE, THERE'S AN ANIMATION, OR  
02:55:03 20 ACTUALLY I DON'T THINK WE ARE QUITE THERE YET, BUT WHAT YOU  
02:55:07 21 HAVE IS YOU CAN TYPE IN A COMMAND, SO FOR EXAMPLE, THIS ONE IS  
02:55:12 22 SPANNING-TREE, PORTFAST, BPDU FILTER DEFAULT. AND THE USER CAN  
02:55:18 23 TYPE THAT. HIT ENTER, AND THEN IT'S SENT TO THE CISCO SWITCH  
02:55:24 24 AND ROUTER, AND THEN USUALLY A RESPONSE COMES BACK.

02:55:29 25 IN SOME CASES, THE RESPONSE IS A CONFIGURATION EITHER THAT

02:55:33 1 IT'S ACCEPTED, WHICH MEANS YOU DON'T GET ANY OUTPUT, OR THAT  
02:55:37 2 THERE MIGHT BE AN ERROR OR SOMETHING LIKE THAT.

02:55:40 3 IN OTHER CASES, THERE'S INFORMATION THAT'S RETURNED AS A  
02:55:43 4 RESULT OF THE REQUEST.

02:55:45 5 BUT THE KEY REALLY IS YOU HAVE THIS PROMPT, YOU CAN TYPE  
02:55:47 6 IN CHARACTERS THAT REPRESENT MULTIPLE WORDS, IT'S A COMMAND OR  
02:55:52 7 AN INSTRUCTION, AND THAT CAN BE SENT TO THE SWITCH OR ROUTER.

02:55:55 8 Q. SO THE COMMAND THAT YOU ARE ILLUSTRATING HERE IS  
02:56:00 9 SPANNING-TREE, PORTFAST, BPDU FILTER DEFAULT; DO YOU SEE THAT?

02:56:07 10 A. YES.

02:56:07 11 Q. IS THAT ONE OF THE COMMANDS IN THE CASE?

02:56:09 12 A. IT IS.

02:56:12 13 Q. NOW FROM YOUR ANALYSIS, HOW MANY COMMANDS DID YOU,  
02:56:16 14 MULTIWORD COMMANDS WE ARE TALKING ABOUT NOW, DID YOU DETERMINE  
02:56:19 15 WERE COPIED BY ARISTA?

02:56:22 16 A. 506.

02:56:24 17 Q. SO HERE ON SLIDE 11, CAN YOU TELL ME WHAT'S BEING SHOWN  
02:56:30 18 HERE?

02:56:31 19 A. SURE. THIS IS KIND OF A WORD SALAD OF ALL OF THE  
02:56:35 20 DIFFERENT 506 COMMANDS.

02:56:37 21 IT'S OBVIOUSLY VERY BUSY. I WON'T TRY AND READ THESE.

02:56:41 22 BUT IT GIVES YOU A SENSE OF THE TYPES OF COMMANDS, THE VARIETY  
02:56:49 23 IN THE WORDS THAT ARE BEING USED.

02:56:51 24 AND THERE'S ALSO SOMETHING HERE WHERE THERE'S COLOR  
02:56:54 25 CODING, AND THE COLOR CODING DEMONSTRATES WHAT'S KIND OF THIS

02:56:58 1 CONCEPT OF A HIERARCHY.

02:57:00 2 I WILL STOP.

02:57:02 3 Q. SO ARE THERE ANY OF THE COMMANDS THAT YOU'RE AWARE OF THAT  
02:57:05 4 YOU LOOKED AT THAT ARE FOUR OR MORE WORDS?

02:57:08 5 A. YES, IN FACT THERE'S ONE RIGHT HERE, AREA NSSA  
02:57:15 6 DEFAULT-INFORMATION-ORIGINATE. THERE'S ALSO AREA NSSA  
02:57:22 7 TRANSLATE TYPE 7 ALWAYS. THERE CLEARLY ARE MANY COMMANDS HERE  
02:57:29 8 THAT ARE FOUR WORDS OR MORE.

02:57:31 9 Q. NOW, YOU JUST MENTIONED THAT THE COLOR CODING, IT SHOWS A  
02:57:38 10 HIERARCHY OF THE COMMANDS. CAN YOU EXPLAIN WHAT YOU MEAN BY  
02:57:42 11 THAT?

02:57:42 12 A. SURE. THIS NEXT DEMONSTRATIVE TAKES AWAY MANY OF THE  
02:57:46 13 OTHER COLORS, SO NOW THERE'S JUST TWO, THERE'S RED AND GREEN.  
02:57:51 14 AND THESE SHOW TWO HIERARCHIES.

02:57:53 15 AND WHAT THE HIERARCHIES ARE IS IT'S AN ORGANIZATION OF  
02:57:57 16 THE COMMANDS INTO A STRUCTURE SO THAT IT'S EASIER FOR AN  
02:58:02 17 OPERATOR TO REMEMBER THEM. IT'S KIND OF A CATEGORIZATION.

02:58:06 18 AND THEY ARE CALLED HIERARCHIES OR TREES. AND THOSE TREES  
02:58:11 19 USUALLY, THE WAY THAT THEY'RE REPRESENTED, IF YOU GO TO THE  
02:58:15 20 NEXT SLIDE, IS AS THIS KIND OF TREE STRUCTURE, WHERE THE ROOT  
02:58:22 21 IS THE FIRST WORD AND THEN THE NEXT WORD IS THE NEXT LEVEL IN  
02:58:26 22 THE HIERARCHY.

02:58:26 23 AND THESE HELP AN OPERATOR CONCEPTUALLY REMEMBER THESE  
02:58:30 24 KINDS OF COMMANDS.

02:58:32 25 SO THE HIGHLIGHTING ON THE PREVIOUS SCREEN OF RED AND

02:58:35 1 GREEN, SHOW THE "SHOW HIERARCHY", AND ALSO THE "IP HIERARCHY."  
02:58:41 2 SO NOW IF WE ORGANIZE IT INTO THIS KIND OF TREE STRUCTURE,  
02:58:48 3 "SHOW" AND "IP" ARE THE ROOTS OF TWO TREES, THEN THEY BRANCH  
02:58:51 4 INTO THE DIFFERENT POSSIBILITIES FOR THE SUBSEQUENT WORDS.

02:58:54 5 SO FOR A COMMAND LIKE "SHOW IP ACCESS LISTS," YOU CAN SEE  
02:58:58 6 IN THE LEFT THAT IT'S IN THE "SHOW HIERARCHY", THE SECOND LAYER  
02:59:02 7 IS "IP," THEN THE THIRD IS "ACCESS LIST."

02:59:06 8 Q. SO DO THE HIERARCHIES YOU JUST DESCRIBED PLAY INTO ROLE IN  
02:59:10 9 THE FORMATION OF THE AUTHORIZING OF THE COMMANDS THEMSELVES?

02:59:15 10 A. THEY DO. THEY DEMONSTRATE THE CREATIVITY THAT GOES INTO  
02:59:20 11 DETERMINING THE WORD ORDER. THERE'S CREATIVITY IN HOW YOU  
02:59:24 12 ORGANIZE THE WORDS AND HOW IT FITS INTO HIERARCHIES AND WHICH  
02:59:30 13 HIERARCHY IS SELECTED. AND I WILL TALK A LITTLE BIT MORE ABOUT  
02:59:35 14 THAT.

02:59:35 15 Q. NOW I WANT TO MOVE ON TO THE NEXT ELEMENT YOU LISTED WHICH  
02:59:39 16 IS THE OUTPUTS.

02:59:40 17 CAN YOU EXPLAIN TO US WHAT THE OUTPUTS ARE IN THIS CASE?

02:59:43 18 A. SURE. THE OUTPUT HERE IS I THINK ALSO PRETTY  
02:59:46 19 STRAIGHTFORWARD. WHEN YOU TYPE A COMMAND AT THE COMMAND LINE  
02:59:52 20 INTERFACE, IT'S SENT TO THE SWITCH OR ROUTER AND THEN A  
02:59:56 21 RESPONSE COMES BACK.

02:59:58 22 WHAT THE ANIMATION IS SHOWING. AND IN THIS CASE THE  
03:00:01 23 COMMAND THAT'S TYPED IS SHOW SPANNING-TREE. AND THE RESULTS  
03:00:05 24 THAT COME BACK, THEY ARE A LITTLE BIT HARD TO SEE, BUT EVEN IF  
03:00:08 25 YOU COULD SEE THEM IN GREAT DETAIL, I'M NOT SURE YOU WOULD MAKE



03:00:12 1 A WHOLE LOT OF SENSE OF IT, BUT IT'S IN A FORMAT THAT'S  
03:00:16 2 STRUCTURED SO THAT A PERSON CAN UNDERSTAND IT.

03:00:19 3 THERE'S CREATIVITY TO THE PROCESS AND WHAT INFORMATION IS  
03:00:23 4 DISPLAYED, WHERE ON THE SCREEN IT GOES, I MEAN, REALLY YOU CAN  
03:00:27 5 ORGANIZE THESE OUTPUTS HOWEVER YOU WANT.

03:00:29 6 Q. SO DO ALL COMMANDS HAVE OUTPUTS?

03:00:32 7 A. NO. THE COMMANDS THAT HAVE OUTPUTS ARE THE ONES WHERE  
03:00:40 8 THERE'S USUALLY A REQUEST TO DISPLAY INFORMATION.

03:00:43 9 Q. SO I WANT TO MOVE ON TO THE NEXT ELEMENT THAT YOU TALKED  
03:00:47 10 ABOUT WHICH IS -- WHICH ARE HELP DESCRIPTIONS.

03:00:50 11 CAN YOU EXPLAIN WHAT THE HELP DESCRIPTIONS ARE?

03:00:52 12 A. SURE.

03:00:53 13 HELP DESCRIPTIONS ARE AT THE COMMAND LINE BEING ABLE TO  
03:01:00 14 TYPE A COMMAND OR A PORTION OF A COMMAND FOLLOWED BY A QUESTION  
03:01:04 15 MARK AND THEN YOU CAN GET A STRING OF TEXT THAT MIGHT REMIND  
03:01:07 16 THE PERSON WHAT THEY NEED OR SOME ADDITIONAL INFORMATION.

03:01:12 17 CLEARLY, THERE ARE QUITE A FEW COMMANDS. IT'S COMPLEX  
03:01:18 18 PIECE OF HARDWARE THAT REQUIRES CONFIGURATION. SO SOMETIMES A  
03:01:22 19 LITTLE INFORMATION TO THE OPERATOR IS HELPFUL.

03:01:25 20 SO THERE'S AN EXAMPLE HERE, SNMP, SERVER, HOST VERSION,  
03:01:30 21 QUESTION MARK. AND IT PROVIDES THE RESPONSE, SNMP VERSION TO  
03:01:35 22 USE FOR NOTIFICATION MESSAGES.

03:01:39 23 Q. AND THEN I WANT TO MOVE FORWARD TO THE NEXT ONE WHICH IS  
03:01:42 24 THE MODES AND PROMPTS.

03:01:45 25 NOW CAN YOU JUST BRIEFLY EXPLAIN TO US THE ARRANGEMENT OF

03:01:50 1 THE MODES AND PROMPTS THAT WE ARE TALKING ABOUT HERE IN THIS  
03:01:52 2 CASE?

03:01:52 3 A. SURE. THE DIFFERENT MODES, I THINK MR. LOUGHEED TESTIFIED  
03:01:57 4 AND DESCRIBED THIS ON THE FIRST DAY. BUT WITHIN A ROUTER,  
03:02:02 5 THERE IS THE ABILITY TO HAVE DIFFERENT MODES. YOU START OFF IN  
03:02:07 6 AN EXECUTION MODE WHERE THE PROTECTION IS FAIRLY MINIMAL.

03:02:12 7 AND SO THE KINDS OF THINGS THAT YOU CAN DO ARE CHANGE  
03:02:16 8 TERMINAL SETTINGS, PERFORM BASIC TESTING AND DISPLAYING  
03:02:20 9 INFORMATION.

03:02:21 10 THERE'S A FURTHER KIND OF PRIVILEGED MODE, KIND OF AN  
03:02:25 11 ADDITIONAL LEVEL OF SECURITY, THAT'S CALLED PRIVILEGED EXEC.  
03:02:28 12 AND THAT'S WHERE YOU'RE ABLE TO DO MORE OF THE CONFIGURATION OF  
03:02:32 13 THE DEVICE.

03:02:34 14 THERE'S TWO DIFFERENT MODES, AND THE WAY THAT THESE MODES  
03:02:38 15 ARE ORGANIZED IS YOU START OFF AT USER, YOU CAN THEN GO INTO  
03:02:43 16 THE PRIVILEGED MODE AND THEN THE NEXT STEP IS GLOBAL  
03:02:46 17 CONFIGURATION, WHERE YOU CAN CHANGE THINGS ABOUT THE WAY THE  
03:02:48 18 ENTIRE DEVICE WORKS.

03:02:52 19 OR THEN THERE'S A FOURTH MODE INSIDE OF THAT CALLED THE  
03:02:55 20 INTERFACE CONFIGURATION MODE, AND THAT'S WHERE YOU CAN  
03:02:57 21 CONFIGURE THINGS FOR A PARTICULAR INTERFACE.

03:03:01 22 AT SOME POINT WE WILL HAVE THE DEMONSTRATIVES OF THE CISCO  
03:03:04 23 AND ARISTA SWITCHES AND ROUTERS AND EACH OF THE PLACES YOU CAN  
03:03:08 24 PLUG IN A CABLE THAT'S CALLED AN INTERFACE. AND THE REASON FOR  
03:03:11 25 THAT IS YOU CAN CONFIGURE INTERFACES ON A ROUTER OR SWITCH TO

03:03:16 1 DO THINGS DIFFERENTLY THAN OTHER INTERFACES.

03:03:19 2 AND IT GIVES YOU SOME NICE FLEXIBILITY IN HOW THE ROUTER  
03:03:23 3 AND SWITCH WORKS.

03:03:24 4 SO THERE'S REALLY THOSE FOUR MODES AND THEN ASSOCIATED  
03:03:28 5 WITH EACH ONE IS A CORRESPONDING PROMPT. AND THE PROMPT  
03:03:31 6 PROVIDING AN INDICATION TO THE USER AS TO WHAT MODE THEY'RE IN  
03:03:34 7 SO THEY HAVE AN UNDERSTANDING OF WHAT THEIR CAPABILITIES ARE IN  
03:03:38 8 THAT MODE.

03:03:41 9 Q. AND THEN FINALLY THE LAST THING YOU MENTIONED WERE THE  
03:03:45 10 USER MANUALS.

03:03:46 11 CAN YOU EXPLAIN TO US WHAT THOSE ARE BRIEFLY?

03:03:48 12 A. SURE.

03:03:49 13 THE USER MANUALS ARE USER MANUALS. THEY'RE THE MULTI PAGE  
03:03:53 14 DOCUMENTS THAT PROVIDE DESCRIPTIONS OF THE COMMANDS, THEY MIGHT  
03:03:58 15 PROVIDE EXAMPLES OF HOW TO DO THE CONFIGURATION. I THINK  
03:04:03 16 BEHIND THE SERIES OF ARISTA MANUALS THAT CAN BE VERY LONG  
03:04:07 17 BECAUSE THERE'S A FAIR NUMBER OF COMMANDS THAT HAVE TO BE  
03:04:09 18 DESCRIBED, KIND OF A REFERENCE MANUAL FOR SOMEBODY WHO IS --  
03:04:15 19 WHO NEEDS ADDITIONAL INFORMATION TO TRY AND LOOK THINGS UP.

03:04:18 20 Q. NOW, IN TERMS OF YOUR ORIGINALITY AND CREATIVITY ANALYSIS,  
03:04:25 21 CAN YOU JUST EXPLAIN TO US GENERALLY SPEAKING WHAT YOU DID?

03:04:29 22 A. SURE.

03:04:33 23 THIS METHODOLOGY SLIDE LOOKS SIMILAR TO THE ONE AT THE  
03:04:36 24 BEGINNING WHERE I TALKED ABOUT THE TYPES OF DOCUMENTS I  
03:04:38 25 CONSIDERED OVERALL.

03:04:39 1 BUT IN THINKING ABOUT THE SPECIFIC QUESTION AS TO  
03:04:42 2 ORIGINALITY, I FOCUSED ON THE MATERIALS THAT I LISTED HERE,  
03:04:45 3 RIGHT, THE DOCUMENTS AND E-MAILS PRODUCED BY CISCO AND ARISTA,  
03:04:48 4 THE TESTIMONY OF CISCO AND CISCO ENGINEERS, THE TESTIMONY OF  
03:04:52 5 OTHER ENGINEERS, AND THE CONVERSATIONS WITH CISCO AS WELL.

03:04:57 6 AND REALLY WHAT I'M TRYING TO UNDERSTAND IS WHETHER THE  
03:05:04 7 PROCESS OF CREATIVE, WHETHER THERE WAS A PROCESS IN PLACE,  
03:05:07 8 WHETHER THE ENGINEERS HAD THE FLEXIBILITY AND THE CHOICE OVER  
03:05:10 9 WHAT WORDS TO USE, WHETHER THERE WAS DESIGN CRITERIA THAT THEY  
03:05:14 10 CONSIDERED, WHETHER ONE ENGINEER USED ONE SET OF DESIGN  
03:05:18 11 CRITERIA AND ANOTHER ONE USED SOMETHING ELSE.

03:05:21 12 AND ALL OF THIS INFORMATION GOES TO HELPING ME FORM AN  
03:05:26 13 OPINION WHETHER IT'S PART OF THE PROCESS OF CISCO COMING UP  
03:05:30 14 WITH THESE COMMANDS, WHETHER THERE WAS CREATIVITY IN WHAT THOSE  
03:05:34 15 COMMANDS IT WERE THAT WERE ULTIMATELY SELECTED.

03:05:38 16 Q. AND THE ANALYSIS THAT YOU JUST DESCRIBED OF THE PROCESS,  
03:05:42 17 WHAT CONCLUSION DID THAT LEAD YOU TO?

03:05:45 18 A. ULTIMATELY, I REACHED THE CONCLUSION THAT FOR THE  
03:05:50 19 MULTIWORD COMMANDS, THE HELP DESCRIPTIONS, THE COMMAND PROMPTS,  
03:05:55 20 THE OUTPUTS, THE MANUALS, IT WAS ALL A CREATIVE PROCESS AND THE  
03:06:01 21 RESULT OF THAT WAS A CREATIVE OUTPUT.

03:06:04 22 Q. NOW, I WANT TO TALK ABOUT SOME OF THE THINGS THAT YOU  
03:06:11 23 RELIED ON TO FORM LATE THAT OPINION.

03:06:13 24 AND IF WE CAN PULL UP EXHIBIT 851 WHICH IS IN EVIDENCE,  
03:06:23 25 MR. FISHER. AND YOU SHOULD HAVE THAT, DR. ALMEROOTH, IN YOUR

03:06:26 1 BINDER.

03:06:27 2 A. YES, SIR.

03:06:28 3 Q. AND CAN YOU REMIND US WHAT EXHIBIT 851 IS, PLEASE?

03:06:33 4 A. 851 IS THE PARSER-POLICE DOCUMENT. I BELIEVE THAT  
03:06:37 5 MR. REMAKER TESTIFIED ABOUT IT, BUT IT'S ONE OF THE DOCUMENTS  
03:06:40 6 THAT I RELIED ON IN REACHING MY CONCLUSIONS.

03:06:44 7 Q. AND HOW DID THIS DOCUMENT FORM YOUR OPINIONS OR INFORM  
03:06:49 8 YOUR OPINIONS?

03:06:50 9 A. IT HELPED ME UNDERSTAND WHAT THE PROCESS WAS AND SOME OF  
03:06:57 10 WHAT WAS HAPPENING AS PART OF THE PROCESS.

03:07:00 11 FOR EXAMPLE, IF YOU LOOK UNDER THE PURPOSE, AND I WILL  
03:07:06 12 START READING IN THE MIDDLE, IT ALLOWS CISCO TO PROPOSE COMMAND  
03:07:11 13 LINE ADDITIONS AND GET FEEDBACK FROM FELLOW ENGINEERS WITH  
03:07:16 14 EXPERIENCE TO INSURE CONSISTENCY, USABILITY AND FRIENDLINESS OF  
03:07:25 15 THE CONFIGURATION INTERFACE TO CISCO IOS.

03:07:28 16 AND THERE'S OTHER PARTS I CAN TALK ABOUT IN THIS DOCUMENT,  
03:07:31 17 BUT REALLY IT PROVIDES A WAY FOR ENGINEERS WHO ARE BUILDING  
03:07:35 18 FUNCTIONALITY AND THEN HAVE TO COME UP WITH COMMANDS, TO  
03:07:38 19 CONSULT OTHER ENGINEERS TO GET FEEDBACK ON WHETHER THEIR  
03:07:42 20 DETERMINATIONS ON WHAT THE COMMANDS SHOULD BE, WAS GOOD ENOUGH.

03:07:47 21 Q. NOW, YOU HAD MENTIONED THAT IT'S -- THE PARSER-POLICE  
03:07:54 22 PROVIDES SOME ABILITY FOR ENGINEERS TO PROPOSE COMMAND LINE  
03:07:58 23 ADDITIONS AND GET FEEDBACK; IS THAT RIGHT?

03:08:01 24 A. YES.

03:08:01 25 Q. IN CONNECTION WITH THE MATERIALS YOU REVIEWED, DID YOU SEE

03:08:03 1 ANY EVIDENCE THAT THAT ACTUALLY HAPPENED?

03:08:06 2 A. I DID. THERE WERE A NUMBER OF E-MAILS. I THINK SOME OF  
03:08:09 3 WHICH HAVE BEEN DISCUSSED IN THE TESTIMONY THIS WEEK, WHERE  
03:08:14 4 THEY TALK ABOUT DIFFERENT OPTIONS FOR WHAT THE COMMAND COULD  
03:08:18 5 BE.

03:08:18 6 IN SOME CASES THERE ARE REFERENCES IN THE E-MAILS TO WHERE  
03:08:22 7 THE DISCUSSIONS GOT FAIRLY HEATED. YOU COULD TELL THAT PEOPLE  
03:08:28 8 HAD A VESTED INTEREST IN THE PROCESS AND UNDERSTANDING WHAT THE  
03:08:34 9 ALTERNATIVES WERE, AND ULTIMATELY TRYING TO REACH A DECISION  
03:08:39 10 ABOUT WHAT THE RIGHT COMMAND SHOULD BE, OR AT LEAST WHAT THE  
03:08:43 11 BEST ALTERNATIVE WOULD BE FROM SOMEONE'S PERSPECTIVE.

03:08:45 12 Q. NOW, ARE YOU FAMILIAR WITH A PARSER-POLICE E-MAIL ALIAS AT  
03:08:52 13 CISCO?

03:08:52 14 A. YES, I AM.

03:08:53 15 Q. AND DID YOU -- ACTUALLY, WHAT I SHOULD ASK YOU IS DO YOU  
03:09:00 16 UNDERSTAND GENERALLY WHAT KIND OF PEOPLE WERE ON THAT E-MAIL  
03:09:03 17 ALIAS?

03:09:04 18 A. I DO. AND THAT'S DESCRIBED HERE IN TERMS OF, THAT YOU CAN  
03:09:10 19 GET THE FELLOW SOFTWARE PROFESSIONALS AND CISCO, OTHER PEOPLE  
03:09:15 20 WHO HAD DEVELOPED COMMANDS HAD EXPERTISE IN HOW CISCO WAS  
03:09:22 21 DEVELOPING ITS USER INTERFACE.

03:09:25 22 I THINK THAT MR. LOUGHEED TESTIFIED THAT HE WAS ON THAT  
03:09:27 23 LIST. SO, YES.

03:09:30 24 Q. NOW GOING BACK TO EXHIBIT 851 WHICH IS THE PARSER-POLICE  
03:09:35 25 MANIFESTO DOCUMENT?

03:09:36 1

A. YES.

03:09:37 2

Q. DOES THIS DOCUMENT PROVIDE ANY GUIDELINES FOR COMMAND

03:09:42 3

STRUCTURES OR AUTHORING?

03:09:44 4

A. IT DOES. IT BOTH PROVIDES GUIDELINES AS TO WHAT A PERSON

03:09:49 5

SHOULD DO ABOUT SUBMITTING COMMANDS.

03:09:51 6

SO JUST AT THE BOTTOM THAT YOU SEE HERE ON THE FIRST PAGE,

03:09:57 7

IS SUBMISSION INSTRUCTIONS AND WHAT A PERSON SHOULD DO TO

03:10:00 8

SUBMIT SUGGESTIONS AND HOW TO HANDLE FEEDBACK.

03:10:04 9

IF YOU CONTINUE ON TO THE NEXT PAGE, THERE'S SOMETHING

03:10:08 10

CALLED SYNTAX DESIGN GUIDELINES, ON PAGE 2.

03:10:15 11

AND SO THERE'S A SERIES OF NUMBERED ITEMS, STARTING UNDER

03:10:19 12

SYNTAX DESIGN GUIDELINES. AND ULTIMATELY, I THINK THERE ARE

03:10:23 13

ABOUT TEN IN THE LIST. AND THEY TALK ABOUT ASPECTS OF WHAT'S

03:10:28 14

GOOD VERSUS WHAT'S BAD, OFFERS RECOMMENDATIONS FOR HOW TO

03:10:32 15

DESIGN THE COMMAND-LINE INTERFACE.

03:10:37 16

JUST AS A QUICK EXAMPLE THIS FIRST ONE UNDER THINK

03:10:41 17

EXTENSIBLE, AND REALLY IT'S A CONSIDERATION AS TO WHETHER TO

03:10:43 18

USE A HYPHEN, AND THE IDEA IS TRYING TO AVOID USING HYPHENS

03:10:48 19

BECAUSE IT INTERFERES WITH THE HIERARCHY IF YOU WANT TO EXTEND

03:10:51 20

IT, AND THAT'S WHY IT'S CALLED THINK EXTENSIBLE.

03:10:56 21

THERE'S KIND OF A SET OF GUIDELINES OR ORIGINATIONS AS

03:10:59 22

PART OF THIS MANIFESTO AND ENGINEERS COULD LOOK AT AND USE TO

03:11:04 23

GUIDE THEM. BUT I THINK ALSO THIS DOCUMENT ULTIMATELY SAYS

03:11:07 24

THAT IT'S UP TO THE PERSON WHO IS CREATING THE DEMAND TO MAKE

03:11:11 25

THE DECISION ON WHAT TO DO.

03:11:13 1 I THINK IT EVEN SAYS THAT SOMETIMES THE DECISIONS ARE BAD  
03:11:16 2 AND SOMETIMES YOU HAVE TO LIVE WITH THOSE DECISIONS, BECAUSE  
03:11:20 3 YOU DON'T WANT TO GO BACK AND CHANGE THE COMMANDS LATER.

03:11:23 4 Q. SO IF WE GO A LITTLE BIT -- SCROLL DOWN, MR. FISHER AND  
03:11:27 5 TALK ABOUT SOME MORE OF THESE GUIDELINES. ACTUALLY, WE HAVE TO  
03:11:33 6 GO TO A NEW PAGE, SORRY.

03:11:35 7 YEAH, SO, I WOULD LIKE TO TALK ABOUT NUMBER SIX THERE, DO  
03:11:40 8 YOU SEE THAT ONE? IF WE CAN BLOW IT UP.

03:11:43 9 A. YES.

03:11:44 10 Q. AND IT SAYS, WHEN NAMING A COMMAND, TRY TO PICK NAMES THAT  
03:11:48 11 WOULD BE FAMILIAR TO THE PEOPLE IN THE INDUSTRY; DO YOU SEE  
03:11:51 12 THAT?

03:11:51 13 A. I DO.

03:11:52 14 Q. NOW DID YOU CONSIDER THAT GUIDELINE AS YOU WERE GOING  
03:11:55 15 THROUGH AND DETERMINING WHETHER THERE WAS CREATIVITY IN THE  
03:11:58 16 COMMAND EXPRESSIONS?

03:11:59 17 A. I DID. AND EVEN THERE ARE STANDARDS FOR PROTOCOLS THAT  
03:12:04 18 ARE IN USE, FOR EXAMPLE IP AS A STANDARD, THERE'S STILL SOME  
03:12:10 19 FLEXIBILITY AND CREATIVITY IN HOW YOU CAN REFERENCE THAT  
03:12:13 20 PROTOCOL.

03:12:15 21 WHAT NUMBER SIX IS SAYING IS AS A GENERAL CONVENTION, IT'S  
03:12:19 22 USUALLY BETTER TO REFERENCE THE PROTOCOL, THOUGH THERE ARE  
03:12:24 23 INSTANCES WHERE THAT'S NOT NECESSARILY THE CASE BECAUSE OF  
03:12:28 24 AMBIGUITY OR CONFUSION THAT TAKES PLACE.

03:12:33 25 SO WHILE IT DOES SAY, FOR EXAMPLE, IP IN THE CASE OF MTU,



03:12:41 1 BECAUSE IT'S AN ABBREVIATION FOR MAXIMUM TRANSITION UNIT, IN  
03:12:44 2 OTHER INSTANCES YOU HAVE TO MAKE DIFFERENT DECISIONS BECAUSE IT  
03:12:47 3 MIGHT COMPETE WITH A DIFFERENT COMMAND.

03:12:49 4 SO THERE'S A LOT OF FACTORS THAT GO INTO A PERSON  
03:12:52 5 CONSIDERING ULTIMATELY WHAT THE BEST CHOICE OR WHAT TWO GOOD  
03:12:56 6 CHOICES MIGHT BE.

03:12:57 7 Q. AND IN THAT ANSWER YOU TALKED ABOUT COMPETE WITH A  
03:13:02 8 DIFFERENT COMMAND, COULD YOU EXPLAIN WHAT YOU MEAN THERE?

03:13:05 9 A. SURE.

03:13:06 10 THERE ARE CERTAIN WORDS THAT HAVE DIFFERENT MEANINGS, THE  
03:13:10 11 SAME WORD HAS A DIFFERENT MEANING AND DIFFERENT CONTEXT. AND  
03:13:13 12 WHILE YOU MIGHT BE ABLE TO INTUIT THE MEANING BASED ON WHICH  
03:13:20 13 HIERARCHY YOU'RE IN, THE BETTER THAT YOU CAN AVOID AMBIGUITY IN  
03:13:25 14 THE COMMAND, THE LESS PRONE YOU WILL BE TO ERRORS.

03:13:31 15 SO IN HAD SOME INSTANCES ONE ENGINEER MIGHT THINK THAT IP  
03:13:36 16 MTU 576 IS A GOOD COMMAND. IN ANOTHER INSTANCE, ANOTHER  
03:13:40 17 ENGINEER MIGHT NOT LIKE MTU BECAUSE IT'S ALSO USED FOR ANOTHER  
03:13:44 18 PROTOCOL.

03:13:45 19 AND SO THEY WANT TO DO SOMETHING THAT'S SPECIFIC TO IP IN  
03:13:49 20 THIS INSTANCE.

03:13:50 21 SO THERE'S A LOT OF CONSIDERATIONS, A LOT OF DECISIONS, A  
03:13:53 22 LOT OF CREATIVITY THAT GOES INTO SOMETHING, INTO DESIGNING ONE  
03:14:00 23 OF THESE COMMANDS.

03:14:06 24 Q. NOW MR. FISHER, IF WE COULD GO TO SLIDE 22.

03:14:09 25 SO CAN YOU SHOW US WHAT YOU ARE -- EXPLAIN TO US WHAT YOU

03:14:13 1 ARE ILLUSTRATING HERE, DR. ALMEROTH?

03:14:15 2 A. SURE.

03:14:16 3 IF WE THINK ABOUT ONE PLACE WHERE CREATIVITY CAN EXIST,  
03:14:19 4 AND THAT'S IN THE WORD CHOICE, YOU CAN LOOK AT A COMMAND THAT  
03:14:23 5 EXISTS NOW, SHOW IP ACCESS LIST, AND REALLY YOU COULD CONSIDER  
03:14:28 6 A BUNCH OF DIFFERENT OPTIONS FOR ANY ONE OF THOSE WORDS.

03:14:33 7 FOR EXAMPLE, FOR SHOW, YOU CAN USE DISPLAY OR PRINT OR  
03:14:38 8 WATCH OR ANY OF THE OTHER COMMANDS THAT ARE -- ANY OF THE OTHER  
03:14:43 9 WORDS THAT ARE ON THE LIST.

03:14:45 10 THE FACT THAT WE HAVE A NUMBER OF SHOW COMMANDS TODAY AND  
03:14:48 11 WE THINK ABOUT SHOW TODAY, AND IF YOU ARE A NETWORK ENGINEER,  
03:14:52 12 YOU UNDERSTAND SHOW VERY WELL AND WHAT THE HIERARCHY IS  
03:14:55 13 SUPPOSED TO MEAN. WE STILL HAVE TO GO BACK TO THE POINT IN  
03:14:59 14 TIME WHEN SHOW IS BEING CONTEMPLATED, AND THINK ABOUT THE  
03:15:03 15 CREATIVITY AND THE CHOICES THAT WERE MADE AT THAT TIME.

03:15:06 16 AND AT THE TIME, SOMETHING LIKE "DISPLAY" OR EVEN "DISP"  
03:15:12 17 WOULD BE AN EQUAL NUMBER OF CHARACTERS, OR "VIEW" MIGHT HAVE  
03:15:16 18 BEEN A COMPLETELY REASONABLE ALTERNATIVE.

03:15:18 19 THE SAME THING FOR IP, THE ONE I THINK IS REASONABLE ON  
03:15:23 20 THAT LIST THAT APPEALS TO ME IN PARTICULAR, IS L3. IP IS A  
03:15:29 21 LAYER THREE PROTOCOL, IT'S EASY TO TYPE L3, PEOPLE IN THE  
03:15:34 22 INDUSTRY KNOW WHAT IT IS, I THINK SHOW L3 ACCESS LISTS,  
03:15:39 23 ESPECIALLY GIVEN THAT THERE'S L2 ACCESS LISTS, WOULD MAKE A LOT  
03:15:44 24 OF SENSE TO ME.

03:15:45 25 AND SO IN OTHER WORDS, THERE'S DIFFERENT OPTIONS FOR ANY

03:15:48 1 OF THESE DIFFERENT WORDS THAT COULD BE SUBSTITUTED BY THE  
03:15:51 2 PERSON WHO IS WRITING THE COMMAND AT THAT TIME.

03:15:54 3 Q. SO THEN "ACCESS-LIST;" DO YOU SEE THAT?

03:15:59 4 A. I DO.

03:16:00 5 Q. NOW DOWN, YOU HAVE "ACL," AS ONE OF THE ABBREVIATIONS?

03:16:07 6 A. YES.

03:16:07 7 Q. IS THAT A MORE COMMON WAY TO REFER TO ACCESS LIST?

03:16:11 8 A. IT IS. AND IN FACT, IT'S COMMON ENOUGH THAT IT HAS ITS  
03:16:15 9 OWN PRONUNCIATION. I HEARD IT EARLIER THIS WEEK AND I'M NOT  
03:16:18 10 SURE THEY EXPLAINED IT, BUT THE WORD IS ACL, YOU CAN JUST  
03:16:22 11 PRONOUNCE THE LETTERS, IT'S NOT A REAL WORD.

03:16:25 12 BUT IT'S VERY COMMON FOR ENGINEERS TO TALK ABOUT ACL'S.  
03:16:31 13 AFTER A WHILE, THEY USE ENOUGH OF THESE, IT STARTS TO SOUND  
03:16:35 14 LIKE A FOREIGN LANGUAGE, BUT IT DOES MAKE SENSE TO THE  
03:16:37 15 ENGINEERS WHO SEE THESE COMMANDS.

03:16:39 16 Q. AND ACL, WHAT DOES THAT STAND FOR?

03:16:42 17 A. ACCESS CONTROL LISTS, ACL.

03:16:44 18 Q. NOW IF WE MOVE FORWARD, IN TERMS OF YOUR ANALYSIS, DID YOU  
03:16:51 19 DECIDE WHETHER THE ARRANGEMENT PLAYS INTO THE CREATIVITY PART?

03:16:54 20 A. I DO. OR I DID. AND IT DOES PLAY A ROLE.

03:17:03 21 IN FACT, IF YOU REMEMBER TO JUST TWO MINUTES AGO WHERE I  
03:17:07 22 TALKED ABOUT THE PARSER-POLICE MANIFESTO THAT BOX NUMBER ONE  
03:17:11 23 WAS ABOUT EXTENSIBLE. AND PART OF THAT HAS TO DO WITH THE WORD  
03:17:15 24 ORDER THAT YOU CAN USE.

03:17:16 25 AND SO YOU CAN USE SOMETHING LIKE SHOW IP ACCESS LISTS,

03:17:22 1 AGAIN IS OUR EXAMPLE. AND REALLY YOU CAN ORGANIZE THOSE IN ANY  
03:17:26 2 WAY.

03:17:27 3 AND ONE ENGINEER MIGHT SAY THE EMPHASIS HERE IS ON  
03:17:30 4 DISPLAYING INFORMATION. ANOTHER ONE MIGHT SAY, WELL THE  
03:17:33 5 EMPHASIS REALLY IS ON ACCESS LISTS, SOY I COULD CREATE A  
03:17:38 6 HIERARCHY CALLED ACCESS LISTS, I COULD IDENTIFY WHAT THE  
03:17:42 7 PROTOCOL IS NEXT, IP OR OTHER KINDS OF ACCESS LISTS, AND THEN A  
03:17:46 8 VERB TO SHOW WHAT THE CONFIGURATION IS, CONFIG TO CONFIGURE  
03:17:52 9 THEM.

03:17:53 10 SO THE WORD CHOICE AND THE ORDERING HERE IS SOMETHING  
03:17:56 11 THAT'S A -- I'M SORRY, THE WORD ORDER IS A CREATIVE ENDEAVOR.

03:18:00 12 Q. SO THEN IN TERMS OF THE ARRANGEMENT OF THE WORDS, HOW DOES  
03:18:05 13 THAT PLAY INTO THE ORGANIZATION OF THESE MULTIWORD COMMANDS?

03:18:09 14 A. SURE. ON THIS DEMONSTRATIVE, IT'S BACK TO THE  
03:18:12 15 REPRESENTATION OF SHOW IP ACCESS LISTS BECAUSE "SHOW" IS FIRST,  
03:18:20 16 IT GOES INTO THE "SHOW HIERARCHY."

03:18:24 17 THE NEXT DEMONSTRATIVE SHOWS YOU COULD HAVE ACTUALLY PUT  
03:18:26 18 IT INTO A DIFFERENT HIERARCHY. YOU COULD HAVE PUT IT INTO THE  
03:18:30 19 IP HIERARCHY SO THEN THE COMMAND WOULD BE IP SHOW ACCESS LIST.

03:18:34 20 EITHER WOULD BE POSSIBLE. EITHER WOULD BE AN OPTION.  
03:18:37 21 THERE'S NO CONSTRAINT OR LIMITATION THAT IT'S ONE VERSUS THE  
03:18:40 22 OTHER.

03:18:41 23 AND SO THE FACT THAT WE HAVE IT NOW, WAS BASED ON A  
03:18:47 24 CREATIVE CHOICE BY THE ENGINEER WHO DEVELOPED IT AT THAT TIME.

03:18:52 25 Q. NOW BASED UPON YOUR REVIEW IN THIS CASE, DID YOU BECOME

03:18:55 1 FAMILIAR WITH SOME OF THE CONSIDERATIONS FOR DECIDING TO  
03:18:59 2 STRUCTURE A COMMAND ONE WAY VERSUS ANOTHER WAY?

03:19:02 3 A. YES.

03:19:02 4 Q. AND CAN YOU EXPLAIN TO US WHAT THAT IS?

03:19:05 5 A. SURE.

03:19:06 6 SO FIRST OF ALL, THERE ARE LOTS OF DIFFERENT  
03:19:08 7 CONSIDERATIONS AND SOME PEOPLE WILL CONSIDER DIFFERENT  
03:19:12 8 CONSIDERATIONS DIFFERENTLY.

03:19:14 9 I THINK THE ONE THAT I'VE HIGHLIGHTED SO FAR IS THE USE OF  
03:19:18 10 THE HYPHEN, SOME PEOPLE SAY IT'S GOOD, SOME PEOPLE SAY IT'S  
03:19:22 11 BAD. THE MANIFESTO SAID NOT TO USE HYPHENS.

03:19:29 12 BUT IF YOU GO BACK TO SLIDE 11, FOR EXAMPLE, THE FIGURE  
03:19:35 13 THAT DISPLAYED ALL THE COMMANDS, THE 506 AT ISSUE, THERE'S LOTS  
03:19:40 14 OF COMMANDS THAT HAVE HYPHENS.

03:19:42 15 SO IN SOME INSTANCES IT'S A DESIGN CONSIDERATION WHETHER  
03:19:45 16 TOO USE A HYPHEN OR NOT. IT'S A CONSIDERATION WHETHER TO USE  
03:19:50 17 ONE WORD VERSUS ANOTHER OR NOT.

03:19:52 18 IN SOME CASES THE RECOMMENDATIONS AS DESCRIBED IN THE  
03:19:57 19 MANIFESTO ARE ADHERED TO, SOMETIMES THERE'S EXCEPTIONS, BUT  
03:20:03 20 ULTIMATELY WHAT YOU HOPE TO HAVE IS A CONSISTENT MEMORABLE  
03:20:07 21 COMMAND-LINE INTERFACE INSTEAD OF MULTIWORD COMMANDS.

03:20:11 22 Q. IF WE COULD GO TO SLIDE 26, MR. FISHER.

03:20:15 23 SO NOW I WANT TO TALK ABOUT THE COMMAND OUTPUTS THAT YOU  
03:20:19 24 DESCRIBED A BIT AGO AND TALK ABOUT YOUR ANALYSIS OF THE CREDIT  
03:20:24 25 ACTIVITY THERE, OKAY.

03:20:25 1 A. CERTAINLY.

03:20:27 2 Q. SO WHAT DID YOU DO TO DO THAT ANALYSIS?

03:20:31 3 A. SO FOR THE SCREEN OUTPUTS, WHAT I WAS ABLE TO DO WAS ALSO  
03:20:35 4 LOOK AT THE USER MANUALS, LOOK AT THE SAME KINDS OF E-MAIL  
03:20:38 5 EXCHANGES WHERE THERE WERE DISCUSSIONS ABOUT WHAT SOME OF THE  
03:20:43 6 OUTPUTS SHOULD BE, THE SAME KINDS OF MATERIALS THAT I HAD  
03:20:48 7 DISCUSSED PREVIOUSLY THAT I HAD CONSIDERED AS PART OF THIS  
03:20:50 8 QUESTION.

03:20:51 9 Q. AND SO YOU TALKED ABOUT THIS EXAMPLE BEFORE WHERE YOU TYPE  
03:20:57 10 IN A COMMAND AND THEN YOU GET AN OUTPUT BACK.

03:21:00 11 CAN YOU EXPLAIN TO US WHAT YOU BELIEVE TO BE THE  
03:21:06 12 CREATIVITY IN THE OUTPUT?

03:21:08 13 A. SURE. THE CREATIVITY HERE, IF YOU CAN SEE THE WORDS ON  
03:21:13 14 THE SCREEN HERE, THERE REALLY IS A LOT OF VARIABILITY IN HOW  
03:21:19 15 YOU CAN ORGANIZE THIS INFORMATION. THIS IS FOR THE COMMAND  
03:21:23 16 "SHOW SPANNING-TREE," AND IT PROVIDES SOME INFORMATION ABOUT  
03:21:28 17 WHAT PROTOCOL IS ENABLED.

03:21:31 18 AND THEN THERE ARE DIFFERENT FIELDS, AND THEN AFTER THE  
03:21:33 19 FIELDS ARE INFORMATION ABOUT THE STATUS OF THE ROUTER.

03:21:37 20 NOW THE FIELDS THEMSELVES AND THE NAMES OF THE FIELDS  
03:21:41 21 DON'T CHANGE FROM ONE INSTANCE TO THE NEXT IF YOU WERE  
03:21:51 22 EXECUTING THESE COMMANDS ON AN OPERATING ROUTER, BUT THE VALUES  
03:21:54 23 THAT GO INTO THOSE FIELDS.

03:21:56 24 NOW IN AND INSTANCE THE VALUES HAVE THE SAME UNITS. IT  
03:22:00 25 MIGHT MEGABITS PER SECOND IN THE COUNTER OF PACKETS THAT WERE

03:22:03 1 LOST.

03:22:03 2 SO ALL OF THE INFORMATION THAT'S DISPLAYED CAN BE REALLY  
03:22:06 3 ORGANIZED IN ANY FASHION. YOU COULD DO IT IN TABLES, YOU COULD  
03:22:09 4 DO IT IN LINES. THERE REALLY IS A LOT OF CREATIVITY INVOLVED  
03:22:13 5 IN DECIDING AND ORGANIZING THE INFORMATION HERE.

03:22:18 6 Q. NOW IN CONNECTION WITH YOUR ANALYSIS OF THE OUTPUTS, DID  
03:22:21 7 YOU DETERMINE WHETHER THERE WERE ANY SIGNIFICANT CONSTRAINTS ON  
03:22:25 8 HOW YOU COULD CONSTRUCT THESE OUTPUTS?

03:22:27 9 A. I DID. AND THERE REALLY AREN'T. YOU CAN INCLUDE ANY  
03:22:33 10 INFORMATION, YOU CAN ORGANIZE IT IN ANY WAY.

03:22:37 11 THERE MIGHT BE CONSTRAINTS LIKE YOU HAVE TO USE ENGLISH OR  
03:22:41 12 SOMETHING LIKE THAT, BUT THAT'S NOT REALLY A SIGNIFICANT  
03:22:44 13 CONSTRAINT THAT IMPINGES ON THE ABILITY OF THE PERSON DESIGNING  
03:22:49 14 THIS OUTPUT TO EXERCISE CREATIVITY IN WHAT THOSE CHOICES MIGHT  
03:22:57 15 BE.

03:22:57 16 Q. NOW I WANT TO GO FORWARD TO THE HELP DESCRIPTIONS. YOU  
03:23:00 17 DESCRIBED THOSE FOR US.

03:23:02 18 WHAT DID YOU DO IN CONNECTION WITH YOUR ANALYSIS OF THE  
03:23:07 19 HELP DESCRIPTIONS AND THE CREATIVITY THERE.

03:23:10 20 A. THE ANALYSIS AGAIN, WAS VERY SIMILAR, I CAN LOOK AT THE  
03:23:14 21 USER MANUALS.

03:23:15 22 I CAN LOOK AT THE SWITCHES THEMSELVES IN SOME INSTANCES.  
03:23:21 23 AND I CAN LOOK AT THE HELP DESCRIPTIONS THAT ARE EXPECTED TO BE  
03:23:24 24 PRODUCED ON THE SWITCHES WHEN THEY'RE RUNNING THE OPERATING  
03:23:29 25 SYSTEM.

03:23:30 1 AND SO THERE'S AN ANIMATION HERE THAT SHOWS FOR THE  
03:23:33 2 COMMAND "SNMP-SERVER HOST VERSION?" AND THEN IT RETURNS THE  
03:23:40 3 RESPONSE, "SNMP VERSION TO USE FOR NOTIFICATION MESSAGES."

03:23:46 4 AND MY UNDERSTANDING OF THE PROCESS BY WHICH THOSE ARE  
03:23:50 5 CREATED IS CREATIVE. THERE AREN'T REALLY CONSTRAINTS ON WHAT  
03:23:56 6 THE USER OR THE PERSON DESIGNING THOSE COMMANDS IS ALLOWED TO  
03:24:00 7 INCLUDE IN TERMS OF THE HELP INFORMATION.

03:24:03 8 Q. NOW I WANT TO MOVE FORWARD TO THE NEXT ELEMENT OF THE USER  
03:24:10 9 INTERFACE THAT YOU DESCRIBED WHICH IS THE MODES AND PROMPTS AND  
03:24:14 10 THE ARRANGEMENT OF THE MODES AND PROMPTS?

03:24:16 11 A. YES.

03:24:17 12 Q. WHAT DID YOU DO IN CONNECTION WITH YOUR ANALYSIS OF THE  
03:24:20 13 CREATIVITY THERE?

03:24:20 14 A. IT'S A SIMILAR KIND OF METHODOLOGY. I LOOKED AT WHAT THE  
03:24:25 15 DOCUMENTS WOULD SAY ABOUT MODES AND PROMPTS AND ALSO WHAT THE  
03:24:30 16 DOCUMENTS SAY ABOUT THE PROCESS BY WHICH THESE WERE DESIGNED.  
03:24:35 17 I REVIEWED DEPOSITION TESTIMONY. I BELIEVE MR. LOUGHEED  
03:24:38 18 TESTIFIED ABOUT THIS ON MONDAY.

03:24:43 19 AND SO THE IDEA THAT YOU HAVE THE EXECUTIVE, THE EXEC  
03:24:50 20 INTERFACE AND THEN THE PRIVILEGE AND THEN THE GLOBAL  
03:24:53 21 CONFIGURATION AND THEN THE INTERFACE CONFIGURATION MODES AND  
03:24:57 22 THEN THE CORRESPONDING PROMPTS, THERE'S OTHER WAYS THAT THAT  
03:25:01 23 COULD HAVE BEEN ORGANIZED, OTHER NAMES THAT COULD HAVE BEEN  
03:25:05 24 USED, AND SO IT'S CLEAR THAT THERE WAS A CREATIVE PROCESS IN  
03:25:12 25 THE MODES AND PROMPTS AS WELL.



03:25:13 1 Q. IN CONNECTION WITH YOUR ANALYSIS OF THE CASE, HAD YOU SEEN  
03:25:19 2 ANYTHING TO INDICATE THAT SOMEBODY ELSE BEFORE CISCO HAD THE  
03:25:21 3 ARRANGEMENT THAT YOU JUST DESCRIBED OF MODES AND PROMPTS?

03:25:25 4 A. NO, NOT THOSE FOUR MODES AND PROMPTS THAT ARE AT ISSUE  
03:25:28 5 HERE.

03:25:29 6 Q. NOW JUST SO I UNDERSTAND, SO IS IT POSSIBLE, CAN YOU JUST  
03:25:35 7 JUMP FROM THE TOP LEVEL MODE ALL THE WAY DOWN TO THE INTERFACE  
03:25:43 8 MODE?

03:25:43 9 A. NO AS PART OF THE STRUCTURE OF THE MODES AND PROMPTS, THEY  
03:25:45 10 ARE NESTED, MEANING YOU HAVE TO BE IN THE FIRST MODE, THE EXEC  
03:25:52 11 MODE, AND FROM THERE YOU CAN ONLY GET TO THE PRIVILEGED MODE.

03:25:56 12 THEN ONCE YOU ARE IN THE PRIVILEGED MODE, YOU HAVE TO GO  
03:25:58 13 TO THE GLOBAL CONFIGURATION AND THEN TO THE INTERFACE  
03:26:01 14 CONFIGURATION MODE.

03:26:01 15 SO THEY ARE NESTED THAT WAY. AND THAT WAS A CREATIVE  
03:26:06 16 DECISION. THEY DIDN'T HAVE TO BE NESTED, YOU COULD GO TO ANY  
03:26:10 17 MODE AS AN ALTERNATIVE.

03:26:11 18 AND SO THAT WAS SOMETHING THAT WAS DESIGNED AND SPECIFIED  
03:26:15 19 THAT WAY ON PURPOSE.

03:26:17 20 Q. NOW, I WANT TO GO FORWARD TO SLIDE 29, PLEASE, AND TALK  
03:26:27 21 ABOUT THE USER MANUALS; DO YOU SEE THAT?

03:26:29 22 A. YES.

03:26:30 23 Q. NOW, IN YOUR -- WHAT DID YOU DO FOR YOUR ANALYSIS OF THE  
03:26:35 24 POTENTIAL CREATIVITY OF THE USER MANUALS?

03:26:36 25 A. HERE AGAIN, I RELIED ON SIMILAR KINDS OF INFORMATION.

03:26:41 1 CLEARLY WHEN YOU HAVE A MULTI HUNDRED PAGE MANUAL THAT'S  
03:26:44 2 ESSENTIALLY LIKE A BOOK, THERE'S ALL SORTS OF WAYS IN WHICH THE  
03:26:48 3 INFORMATION CAN BE ORGANIZED WITHIN THAT MANUAL, WHAT THE  
03:26:53 4 INFORMATION SAYS EXACTLY, THE WORD CHOICES THAT ARE USED TO  
03:26:57 5 DESCRIBE ASPECTS OF THE SWITCH OR ROUTER.

03:27:01 6 IT REALLY IS ON PAR WITH A BOOK. AND YOUR ABILITY TO PUT  
03:27:08 7 INTO INFORMATION IN THAT MANUAL THAT YOU WANT.

03:27:10 8 Q. SO THEN IN TERMS OF THE FOUR ELEMENTS OF THE USER  
03:27:14 9 INTERFACE, LET'S TAKE THAT, THOSE FIRST. DID YOU REACH ANY  
03:27:18 10 CONCLUSION AS TO THE ORIGINALITY AND CREATIVITY OF THOSE  
03:27:23 11 ELEMENTS?

03:27:23 12 A. YES. FOR THE USER INTERFACE, THAT INCLUDED THE FOUR  
03:27:27 13 COMPONENTS, THE MULTIWORD COMMANDS, THE OUTPUTS, THE HELP  
03:27:32 14 DESCRIPTIONS, THE MODES AND PROMPTS, AND THAT WAS THE USER  
03:27:36 15 INTERFACE FOR EACH OF IOS, IOS XR, IOS XE, AND NX-OS, I HAD  
03:27:43 16 FOUND THAT THERE WAS CREATIVITY IN THE WAY THAT ALL FOUR OF  
03:27:49 17 THOSE COMPONENTS WERE DETERMINED.

03:27:51 18 Q. AND DID YOU ANALYZE, IN TERMS OF WHAT WE JUST WALKED  
03:27:55 19 THROUGH IN DESCRIBING YOUR ANALYSIS, DID YOU DO THAT FOR EACH  
03:27:58 20 OF THE USER INTERFACES AT ISSUE IN THIS CASE?

03:28:00 21 A. YES, I DID.

03:28:02 22 Q. AND THEN WITH RESPECT TO THE USER DOCUMENTATION, THE  
03:28:07 23 MANUALS THAT ARE AT ISSUE THEMSELVES, DID YOU REACH A  
03:28:10 24 CONCLUSION ABOUT THE ORIGINALITY AND CREATIVITY THERE?

03:28:13 25 A. YES, I DID.

03:28:14 1 FOR THE USER MANUALS THAT HAVE BEEN IDENTIFIED, I ALSO  
03:28:18 2 DETERMINED THAT THEY WERE -- THE PROCESS BY WHICH THEY WERE  
03:28:25 3 DEVELOPED WAS A CREATIVE PROCESS AND THAT ULTIMATELY THE  
03:28:31 4 PRODUCTS THEMSELVES WERE CREATED.

03:28:33 5 Q. AND WAS THAT TRUE WITH RESPECT TO ALL THE MANUALS THAT YOU  
03:28:35 6 LOOKED AT?

03:28:36 7 A. YES, IT IS.

03:28:37 8 Q. NOW, I WANT TO GO FORWARD TO SLIDE 32, MR. FISHER. THANK  
03:28:45 9 YOU, SIR.

03:28:46 10 SO LET'S TALK ABOUT WHAT YOU DESCRIBED AS THE SECOND  
03:28:50 11 ASPECT OF THE ANALYSIS THAT YOU WERE ASKED TO DO, AT LEAST FOR  
03:28:54 12 YOUR TESTIMONY HERE TODAY.

03:28:55 13 CAN YOU REMIND US WHAT THAT IS?

03:28:57 14 A. SURE, THAT WAS TO ANALYZE WHETHER OR NOT ARISTA HAD COPIED  
03:29:00 15 CISCO'S COPYRIGHTED WORKS.

03:29:03 16 Q. NOW, HOW DID YOU GO ABOUT DOING THAT?

03:29:10 17 A. SURE.

03:29:11 18 IF YOU GO TO SLIDE 33, THERE'S TWO DIFFERENT PRONGS THAT I  
03:29:15 19 LOOKED AT. IN PARTICULAR, WHETHER OR NOT THERE WAS EVIDENCE OF  
03:29:18 20 DIRECT COPYING, WHERE THERE WAS TESTIMONY OR EVIDENCE OR  
03:29:22 21 SOMETHING THAT SAID, YES, ARISTA HAD COPIED WHAT CISCO'S  
03:29:29 22 COPYRIGHTED WORKS WERE.

03:29:30 23 AND THEN SEPARATELY, I ALSO DID AN ANALYSIS TO DETERMINE  
03:29:34 24 WHETHER OR NOT ARISTA HAD ACCESS TO THE CISCO COPYRIGHTED  
03:29:37 25 MATERIALS AND WHETHER THERE WAS SIMILARITY BETWEEN CISCO'S

03:29:41 1 COPYRIGHTED MATERIALS AND WHAT ARISTA WAS DOING.

03:29:44 2 Q. NOW, WITH RESPECT TO THAT FIRST PRONG, THE EVIDENCE OF  
03:29:52 3 DIRECT COPYING?

03:29:53 4 A. YES.

03:29:54 5 Q. DID YOU FIND EVIDENCE OF DIRECT COPYING?

03:29:57 6 A. I DID.

03:29:59 7 MR. VAN NEST: OBJECTION, YOUR HONOR.

03:29:59 8 THIS GOES INTO VOUCHING AND LACKS FOUNDATION.

03:30:02 9 THE COURT: SUSTAINED.

03:30:03 10 MR. NELSON: HE'S NOT GOING TO SUMMARIZE IT, I JUST  
03:30:06 11 WANT HIS CONCLUSION, YOUR HONOR.

03:30:08 12 THE COURT: OKAY.

03:30:09 13 MR. NELSON:

03:30:09 14 Q. AND WHAT DID YOU CONCLUDE THERE?

03:30:11 15 A. I CONCLUDED THAT FOR EACH OF THE FOUR USER INTERFACES,  
03:30:14 16 FROM IOS, IOS XE, IOS XR AND NX-OS, THAT THERE WAS COPYING BY  
03:30:22 17 ARISTA. AND THE SAME FOR THE USER MANUALS.

03:30:27 18 Q. NOW LET'S GO TO SLIDE 34.

03:30:35 19 AND I WANT TO JUST TALK ABOUT THE PRODUCTS THAT ARE AT  
03:30:41 20 ISSUE HERE. COULD YOU JUST EXPLAIN TO US THE PRODUCTS THAT ARE  
03:30:48 21 AT ISSUE HERE?

03:30:49 22 A. YES, THE PRODUCTS THAT ARE AT ISSUE ARE ALL OF ARISTA'S  
03:30:52 23 SWITCHES.

03:30:53 24 AND THE REASON FOR THAT IS THAT THEY ALL RUN EOS, THE  
03:30:58 25 EXTENSIBLE OPERATING SYSTEM. THE OPERATING SYSTEM THAT ARE RUN

03:31:01 1 ON THE SWITCHES ARE SIMILAR TO WHAT CISCO CALLS ITS IOS, THE  
03:31:05 2 INTERNETWORK OPERATING SYSTEM. AND BECAUSE EOS RUNS ON ALL OF  
03:31:08 3 THE SWITCHES, AND I'VE LOOKED AT EOS AND ITS USER INTERFACE, I  
03:31:14 4 HAVE DETERMINED THAT ALL OF THE PRODUCTS THAT ARISTA HAS ARE AT  
03:31:18 5 ISSUE HERE.

03:31:21 6 Q. NOW I WOULD LIKE TO GO FORWARD TO SLIDE 35.

03:31:27 7 SO IN CONNECTION WITH THE -- THAT SECOND PART OF THE  
03:31:30 8 ANALYSIS, CAN YOU JUST TELL US WHAT, WHAT YOU DID GENERALLY TO  
03:31:34 9 DO THAT?

03:31:35 10 A. YES. I LOOKED AT SOME OF THE SAME INFORMATION, THE  
03:31:41 11 COMPLAINT, THE INTERROGATORY RESPONSES, THE DOCUMENTS,  
03:31:45 12 DEPOSITION TESTIMONY, INFORMATION AVAILABLE LOOKING AT THE  
03:31:50 13 SWITCHES THEMSELVES, TO SEE WHETHER OR NOT THERE WAS EVIDENCE  
03:31:55 14 OF COPYING.

03:31:57 15 Q. NOW CAN YOU GO TO EXHIBIT 295 IN YOUR BINDER?

03:32:19 16 A. I'VE GOT TEN BINDERS OF EXHIBITS.

03:32:23 17 MR. NELSON: SORRY ABOUT THAT.

03:32:28 18 THE WITNESS: OKAY. I'M THERE.

03:32:30 19 Q. AND CAN YOU TELL US WHAT EXHIBIT 295 IS?

03:32:33 20 A. IT'S THE EOS CLI CONVENTIONS AND STYLE GUIDELINES THAT  
03:32:38 21 COMES FROM ARISTA.

03:32:39 22 Q. AND IS THIS SOMETHING THAT YOU CONSIDERED IN FORMING YOUR  
03:32:43 23 OPINIONS?

03:32:44 24 A. IT IS.

03:32:44 25 Q. AND HOW IS IT THAT THIS INFORMED YOUR OPINION?

03:32:48 1 A. IT INFORMS MY OPINION, IT'S AS THE TITLE INDICATES, IT'S  
03:32:53 2 THE STYLE GUIDE THAT'S TO BE USED WITHIN ARISTA FOR ITS  
03:32:58 3 DEVELOPMENT OF COMMANDS.

03:33:04 4 MR. NELSON: AND AT THIS POINT, I MOVE EXHIBIT 295  
03:33:06 5 INTO EVIDENCE YOUR HONOR.

03:33:06 6 MR. VAN NEST: NO OBJECTION YOUR HONOR.

03:33:07 7 THE COURT: IT WILL BE ADMITTED.

03:33:10 8 (PLAINTIFF'S EXHIBIT 295, WAS ADMITTED INTO EVIDENCE.)

03:33:10 9 BY MR. NELSON:

03:33:13 10 Q. SO CAN YOU TELL US WHAT PART OF THIS WAS RELEVANT TO YOUR  
03:33:18 11 OPINIONS ON THE SIMILARITY IN ACCESS?

03:33:23 12 A. SURE. IF YOU GO TO THE SECOND PAGE --

03:33:27 13 Q. OKAY.

03:33:28 14 A. -- AND ABOUT THIS SECTION HERE. UNDER FOLLOWING THE  
03:33:34 15 INDUSTRY STANDARD. THERE'S A PORTION THAT SAYS, IN LOOKING FOR  
03:33:41 16 INDUSTRY STANDARD MODELS TO FOLLOW, PLEASE LOOK IN THE  
03:33:43 17 FOLLOWING ORDER OF PREFERENCE: IOS, NX-OS, IOS XR, AND JUNOS.

03:33:52 18 AND WHAT THIS IS SAYING IS IN THE CONTEXT OF THE FIRST  
03:33:56 19 PARAGRAPH, I THINK IT'S PROBABLY IMPORTANT THAT I READ THAT AS  
03:33:58 20 WELL. IT SAYS, "THE FIRST AND PROBABLY MOST IMPORTANT  
03:34:03 21 CONVENTION IN OUR CLI IS TO FOLLOW THE INDUSTRY STANDARD. IF  
03:34:07 22 THE COMMANDS FOR A GIVEN FEATURE ARE ALREADY OUT THERE IN THE  
03:34:11 23 INDUSTRY, WE DON'T ADD VALUE BY COMING UP WITH ANOTHER COMMAND  
03:34:16 24 MODEL THAT IS SIMILAR BUT DIFFERENT. ALL WE ACCOMPLISH IN  
03:34:20 25 DOING THAT IS TO MAKE IT HARDER FOR OUR CUSTOMERS TO LEARN HOW

03:34:24 1 TO USE OUR SWITCHES AND ROUTERS."

03:34:26 2 AND SO THE DIRECTION IS TO LOOK AT COMMANDS IN IOS, NX-OS,  
03:34:34 3 IOS XR AND JUNOS, IN THAT ORDER.

03:34:37 4 Q. NOW THE FIRST THREE, IOS, NX-OS, AND IOS XR, CAN YOU  
03:34:42 5 REMIND US WHAT THOSE ARE?

03:34:44 6 A. THOSE ARE CISCO'S USER INTERFACES.

03:34:46 7 Q. AND ARE THEY AT ISSUE IN THE CASE HERE?

03:34:48 8 A. YES, SIR.

03:34:48 9 Q. SO THEN HOW DID WHAT YOU LOOKED AT HERE IN EXHIBIT 295  
03:34:54 10 INFORM YOUR OPINION ABOUT ACCESS AND SIMILARITY?

03:34:57 11 A. THAT ARISTA WAS INSTRUCTING THE READERS OF THIS GUIDE,  
03:35:02 12 THOSE ARISTA EMPLOYEES DEVELOPING COMMANDS, TO LOOK FIRST TO  
03:35:07 13 CISCO'S THREE USER INTERFACES FOR WHAT THE COMMANDS SHOULD BE.

03:35:12 14 Q. NOW LET'S JUST TAKE IOS AS AN EXAMPLE. ARE THE COMMANDS  
03:35:20 15 FOR IOS, IS THAT SOMETHING THAT'S PUBLIC?

03:35:22 16 A. YES, YES, THEY ARE.

03:35:24 17 Q. AND HOW SO?

03:35:25 18 A. WELL, CISCO PUBLISHES ITS MANUALS. THERE ARE URL'S OR WEB  
03:35:32 19 ADDRESSES, AND YOU SEE THESE INCLUDED IN ARISTA E-MAILS WHERE  
03:35:36 20 IT SAYS, IF YOU WANT TO UNDERSTAND THE SYNTAX FOR A COMMAND,  
03:35:42 21 WHAT THE OUTPUTS OF A COMMAND ARE, HERE'S THE LINK ON THE WEB,  
03:35:45 22 THE PUBLICLY AVAILABLE LINK THAT IF YOU CLICK ON, WILL GO TO A  
03:35:49 23 WEB PAGE THAT INCLUDES THE USER MANUAL AND YOUR APPROPRIATE  
03:35:53 24 SECTION.

03:35:54 25 Q. SO NOW I WOULD LIKE YOU TO TURN TO ANOTHER DOCUMENT IN

03:35:59 1 YOUR BINDER WHICH IS EXHIBIT 545.

03:36:17 2 MR. NELSON: IT'S A LOT OF BINDERS, I'M SORRY,  
03:36:20 3 YOUR HONOR.

03:36:22 4 THE WITNESS: I'M STILL LOOKING FOR IT. I DON'T SEE  
03:36:31 5 IT.

03:36:34 6 THE COURT: IT'S NOT SOMETHING I HAVE.

03:36:36 7 MR. NELSON: IT'S NOT IN YOUR BINDER?

03:36:38 8 THE COURT: NOT 545, NO.

03:36:45 9 BY MR. NELSON:

03:36:45 10 Q. IF YOU COULD GO TO SLIDE -- THE NEXT SLIDE.

03:37:00 11 A. I THINK THAT WAS SLIDE 37.

03:37:02 12 Q. 37.

03:37:17 13 CAN YOU TELL US WHAT WE'RE LOOKING AT HERE?

03:37:19 14 A. SURE. THIS IS EXHIBIT 3623, AND THE TITLE OF THIS  
03:37:24 15 SPREADSHEET IS "WHO WANTS WHAT." AND THAT'S A SPREADSHEET THAT  
03:37:28 16 INCLUDES FEATURE REQUESTS FROM CUSTOMERS.

03:37:32 17 Q. AND HOW DID THIS DOCUMENT INFORM YOUR OPINION ABOUT ACCESS  
03:37:38 18 AND SIMILARITY?

03:37:39 19 A. WHAT THIS IS INFORMATION ABOUT IS THERE ARE A COUPLE OF  
03:37:46 20 HIGHLIGHTED ROWS HERE.

03:37:47 21 AND FOR EXAMPLE, THE FIRST ROW THAT'S HIGHLIGHTED IS FOR  
03:37:50 22 ACL CONFIG VALIDATION. AND WHAT'S BEING REQUESTED HERE IS THE  
03:37:55 23 ABILITY TO TEST DEPLOY IN ACL.

03:37:58 24 AND WHAT THE CUSTOMER IS ASKING FOR IS FUNCTIONALITY  
03:38:03 25 THAT'S IDENTICAL TO WHAT'S IN CISCO, AND THAT FUNCTIONALITY



03:38:07 1 PLUS WHAT THE COMMAND STRUCTURE IS AND THE OUTPUTS OF THAT  
03:38:11 2 COMMAND, AND THE REFERENCE IS TO A NEXUS 5000 USER MANUAL FROM  
03:38:17 3 CISCO.

03:38:22 4 THERE'S ANOTHER ONE FOR BGP PEER TEMPLATES AND THE COMMENT  
03:38:27 5 IS A REFERENCE TO IOS. AGAIN, THAT'S THE CISCO OPERATING  
03:38:30 6 SYSTEM.

03:38:31 7 THERE'S ALSO A FEATURE REQUEST FOR SH INT TRUNK. AND THE  
03:38:38 8 EXPANDED VERSION OF THAT IS SHOW INTERFACE TRUNK. AND THE  
03:38:42 9 COMMENT THERE IS TO AGAIN TO MIMIC WHAT CISCO WAS DOING.

03:38:46 10 Q. AND HOW WAS IS THAT THAT INFORMED YOUR OPINION ABOUT  
03:38:51 11 SIMILARITY AND ACCESS?

03:38:52 12 A. WHAT IT'S DESCRIBING IS THAT THERE ARE REQUESTS THAT ARE  
03:38:55 13 THEN FOLLOWED UP ON BY ARISTA TO IMPLEMENT COMMANDS AND  
03:39:01 14 PROVIDING THE CORRESPONDING USER INTERFACE FOR THAT COMMAND,  
03:39:04 15 INCLUDING WHAT THE MULTIWORD COMMAND IS, WHAT THE OUTPUT OF THE  
03:39:08 16 COMMAND IS, THAT IS AN ATTEMPT TO MIMIC OR COPY CISCO.

03:39:13 17 Q. NOW I WOULD LIKE TO, I WOULD LIKE YOU TO TURN TO  
03:39:19 18 EXHIBIT 488 NOW, THIS ONE IS IN EVIDENCE, SO IF WE COULD PUT  
03:39:25 19 THAT UP ON THE SCREEN.

03:39:32 20 AND CAN YOU TELL US WHAT EXHIBIT 488 IS?

03:39:35 21 A. SURE. THAT'S AN ARISTA USABILITY COMPARISON STUDY. AND  
03:39:42 22 IF YOU LOOK AT WHAT THE PURPOSE AND OVERVIEW OF THE DOCUMENT  
03:39:49 23 IS --

03:39:49 24 Q. PAGE 7, I BELIEVE; IS THAT RIGHT?

03:39:51 25 A. YES, IT'S AFTER THE TABLE OF CONTENTS.

03:39:54 1 AND IT SAYS, THE PURPOSE OF THIS STUDY WAS TO GAUGE THE  
03:39:57 2 LEVEL OF ADJUSTMENT REQUIRED FOR A NETWORK ENGINEER TO  
03:39:59 3 TRANSITION FROM A FAMILIAR IOS PLATFORM, THAT'S CISCO, TO AN  
03:40:04 4 NX-OS PLATFORM, AND THAT'S ALSO CISCO, AND EOS PLATFORM, SO  
03:40:12 5 THAT'S ARISTA.

03:40:12 6 SO THE PURPOSE OF THIS STUDY IS TO COMPARE TWO CISCO USER  
03:40:18 7 INTERFACES WITH THE EOS USER INTERFACE.

03:40:20 8 Q. AND DO YOU KNOW WHAT THE CONCLUSION WAS OF THE STUDY?

03:40:24 9 A. THE CONCLUSION GENERALLY WAS THAT THEY WERE VERY SIMILAR  
03:40:28 10 IN THINGS LIKE THE COMMANDS, THE CONFIGURATIONS, THE HELP  
03:40:37 11 OUTPUTS, AND THERE ARE DETAILED GRAPHICS IN THIS DOCUMENT THAT  
03:40:41 12 SHOW THAT.

03:40:41 13 Q. AND WHEN YOU SAY THE CONFIGURATIONS, WHAT DOCUMENT?

03:40:44 14 A. BY CONFIGURATIONS, I MEAN THE MULTIWORD COMMANDS THAT --  
03:40:49 15 THE WAY THIS STUDY WORKED WAS FOR THE TESTER TO TAKE THE SAME  
03:40:56 16 SETS OF COMMANDS AND TYPE THEM ON AN IOS, A DEVICE RUNNING IOS,  
03:41:04 17 A DEVICE RUNNING NX-OS, AND A DEVICE RUNNING EOS, AND TO LOOK  
03:41:09 18 AT WHETHER THE SYNTAX, THE FORMAT OF THE COMMAND WAS THE SAME  
03:41:13 19 ON ALL THREE, AND THEN WHETHER OR NOT THE OUTPUTS WERE THE  
03:41:17 20 SAME, AND THERE WAS ALSO A TESTING OF THE HELP DESCRIPTIONS AS  
03:41:20 21 WELL.

03:41:22 22 MR. VAN NEST: EXCUSE ME, YOUR HONOR. I DON'T HAVE  
03:41:24 23 AN OBJECTION TO THIS EXHIBIT, BUT IT'S NOT CURRENTLY IN  
03:41:26 24 EVIDENCE.

03:41:27 25 THE COURT: OH. THANK YOU FOR THAT.

03:41:28 1 MR. VAN NEST: I DON'T HAVE AN OBJECTION TO IT, SO IF  
03:41:30 2 YOU WANT TO MOVE IT, BUT IT HAS NOT BEEN ADMITTED, BASED ON OUR  
03:41:34 3 SHEET.

03:41:34 4 MR. NELSON: IT WAS ATTACHED TO THAT E-MAIL, AND I  
03:41:37 5 KNEW THEY HAD AN OBJECTION TO THE E-MAIL, BUT I WILL MOVE THIS  
03:41:40 6 VERSION IN. I APOLOGIZE.

03:41:41 7 MR. VAN NEST: NO OBJECTION, YOUR HONOR.

03:41:42 8 THE COURT: THANK YOU.

03:41:42 9 I APPRECIATE THAT, AND IT WILL BE SEPARATELY ADMITTED.

03:41:46 10 (PLAINTIFF'S EXHIBIT 488, WAS ADMITTED INTO EVIDENCE.)

03:41:46 11 MR. NELSON: THANK YOU, YOUR HONOR.

03:41:47 12 Q. SO DR. ALMEROOTH, STAYING ON THIS IDEA OF CONFIGURATION, I  
03:41:54 13 MEAN, ARE THERE CONFIGURATION FILES, IS THAT SOMETHING THAT YOU  
03:41:58 14 HEARD OF OR CONFIGURATION STRUCTURES FOR THESE SWITCHES?

03:42:04 15 A. YES. AND HERE'S WHERE THAT COMES INTO PLAY AND BECOMES  
03:42:08 16 RELEVANT.

03:42:08 17 AS I HOPE I HAVE CONVEYED THAT A SWITCH IS A VERY COMPLEX  
03:42:12 18 PIECE OF HARDWARE, THERE'S LOTS OF CONFIGURATION THAT HAS TO  
03:42:16 19 HAPPEN TO THAT SWITCH.

03:42:18 20 AND THE CONFIGURATION, WHAT THE COMMANDS ARE, IS STORED IN  
03:42:21 21 A CONFIGURATION FILE. IT'S NOT STORED IN RAM. SO IT'S STORED  
03:42:26 22 IN WHAT'S CALLED NONVOLATILE MEMORY. SO IF THE SWITCH LOSES  
03:42:32 23 POWER AND THEN COMES BACK UP, IT CAN REDUCE THAT SAME  
03:42:37 24 CONFIGURATION.

03:42:37 25 SO IT ALMOST GIVES THE SWITCH ITS PARTICULAR IDENTITY.

03:42:41 1 AND WHAT'S RELEVANT ABOUT THE CONFIGURATION OF A SWITCH IS  
03:42:45 2 IT'S BASICALLY A FILE OF DATA, AND YOU CAN TAKE THAT FILE FROM  
03:42:48 3 ONE SWITCH AND THEN RUN THAT SAME CONFIGURATION ON ANOTHER  
03:42:53 4 SWITCH. AND IT USES THE SAME COMMAND STRUCTURE, THEN YOU CAN  
03:42:59 5 USE THE SAME CONFIGURATION COMMAND ON A DIFFERENT SWITCH.

03:43:03 6 NOW, A REAL TEST FOR WHETHER OR NOT YOU ARE COPYING IS IF  
03:43:08 7 YOU CAN TAKE A CONFIGURATION FROM CISCO AND RUN IT ON AN ARISTA  
03:43:14 8 SWITCH, AND WHETHER THAT ARISTA SWITCH UNDERSTANDS THE  
03:43:17 9 CONFIGURATION AND ALL OF THE COMMANDS THAT ARE IN THAT  
03:43:20 10 CONFIGURATION. AND VICE VERSA, IF YOU HAVE A CONFIGURATION ON  
03:43:25 11 AN ARISTA SWITCH, WHETHER YOU CAN THEN RUN IT ON A CISCO SWITCH  
03:43:29 12 AS WELL.

03:43:29 13 Q. AND BASED UPON YOUR VIEW THAT YOU DESCRIBED FOR US IN THIS  
03:43:32 14 CASE, HAVE YOU SEEN ANY EVIDENCE THAT A CONFIGURATION FROM A  
03:43:36 15 CISCO SWITCH CAN BE RUN ON AN ARISTA SWITCH?

03:43:40 16 A. YES. THAT IS PART OF WHAT THEY WERE LOOKING AT IN THIS  
03:43:44 17 TESTING FOR THE KINDS OF COMMANDS THAT WOULD GO INTO A  
03:43:49 18 CONFIGURATION.

03:43:50 19 THERE WAS ALSO EVIDENCE DISCUSSED EARLIER THIS WEEK IN  
03:43:54 20 TESTIMONY WHERE ONE OF THE THINGS THAT WAS TOLD TO THE PUBLIC  
03:43:59 21 WAS YOU COULD TAKE THE CONFIGURATION FROM A CISCO SWITCH AND  
03:44:03 22 DROP IT INTO AN ARISTA SWITCH AND IT WOULD BE ABLE TO RUN.

03:44:08 23 THERE'S OTHER EVIDENCE WHERE THEY TALK ABOUT COPYING AND  
03:44:12 24 PASTING, SORT OF SELECTING THE WHOLE CONFIGURATION AND BEING  
03:44:15 25 ABLE TO RUN IT FROM A CISCO ON TO AN ARISTA SWITCH.

03:44:19 1 Q. AND WHAT DOES THAT TELL YOU ABOUT THE SIMILARITY OF THE  
03:44:23 2 COMMANDS IN THE PRODUCTS?

03:44:27 3 A. THERE WAS EXTENSIVE SIMILARITY. TO BE ABLE TO TAKE THE  
03:44:31 4 SAME SET OF COMMANDS AND RUN IT ON TWO DIFFERENT SWITCHES FROM  
03:44:35 5 TWO DIFFERENT MANUFACTURERS REQUIRES A SIGNIFICANT AMOUNT OF  
03:44:41 6 SIMILARITY BETWEEN THEM.

03:44:42 7 Q. AND WHAT DOES THAT TELL YOU ABOUT THE STRUCTURE OF THE  
03:44:47 8 COMMANDS THEMSELVES?

03:44:48 9 A. IT TELLS ME THAT THEY ARE THE SAME. I MEAN, THE PARSERS  
03:44:52 10 THAT LOOK AT THESE COMMANDS SORRY VERY SPECIFIC, IT'S A  
03:44:57 11 COMPUTER, SO IT LOOKS TO MATCH WORDS.

03:45:00 12 IF THEY ARE OFF BY A HYPHEN, THEN ONE PARSER WILL  
03:45:05 13 MISINTERPRET THE COMMAND. THEY HAVE TO BE IDENTICAL IN ORDER  
03:45:09 14 FOR THE PARSER TO BE ABLE TO PROCESS THAT SAME COMMAND.

03:45:11 15 Q. SO DR. ALMEROOTH, IN TERMS OF THE STRUCTURE OF THE COMMAND,  
03:45:19 16 WOULD THAT INCLUDE ARGUMENTS OF THE COMMAND?

03:45:21 17 A. IT WOULD. IT'S NOT SOMETHING WE'VE TALKED ABOUT, MAYBE I  
03:45:26 18 SHOULD EXPLAIN WHAT THAT MEANS.

03:45:28 19 Q. SURE.

03:45:28 20 A. SO YOU HAVE A COMMAND, AND THEN THERE'S SOMETIMES WHAT'S  
03:45:34 21 CALLED AN ARGUMENT OR A PARAMETER. SO YOU MIGHT SAY SOMETHING  
03:45:37 22 LIKE SET IP-ADDRESS. BUT THEN YOU HAVE TO GIVE IT WHAT THE IP  
03:45:42 23 ADDRESS THAT YOU ARE SETTING.

03:45:44 24 NOW, IP ADDRESS IS, THERE'S ABOUT 4 BILLION IP ADDRESSES,  
03:45:49 25 SO WHAT'S BEING COPIED HERE, THE MULTIWORD COMMAND WOULD BE THE

03:45:54 1

SET IP-ADDRESS.

03:45:58 2

03:46:01 3

BUT THE ARGUMENT ITSELF COULD BE ANY ONE OF THE 4 BILLION  
DIFFERENT IP ADDRESSES THAT EXIST.

03:46:03 4

03:46:08 5

03:46:13 6

03:46:18 7

SO THE KEY, THE KEY TO THE COPYING IS THE MULTIWORD  
COMMAND, THAT EXPRESSION. BUT THE ARGUMENTS, I MEAN, THEY CAN  
BE WHATEVER THE PARSER ALLOWS OR WHATEVER THE OPTIONS ARE FOR  
THE SWITCH.

03:46:19 8

03:46:24 9

03:46:27 10

Q. AND WHEN YOU'RE ABLE TO COPY THIS CONFIGURATION FILE AS  
YOU SAID, WHAT DOES THAT TELL YOU ABOUT THE ARGUMENT STRUCTURE  
OF THE COMMANDS?

03:46:28 11

03:46:32 12

03:46:37 13

03:46:41 14

A. VERY IMPORTANT. IT TELLS YOU THAT NOT ONLY THE STRUCTURE  
OF THE KEY WORDS, LIKE THE SET IP-ADDRESS ARE THE SAME, BUT THE  
SAME FORMAT IS BEING USED FOR THE ARGUMENT. AND IT'S THE SAME  
TIME OF ARGUMENT.

03:46:43 15

03:46:46 16

03:46:49 17

03:46:54 18

SO YOU MIGHT HAVE SET IP ADDRESS, AND THERE ARE DIFFERENT  
WAYS OF EXPRESSING AN IP ADDRESS. AND FOR THE PARSER TO BE  
ABLE TO CORRECTLY INTERPRET IT, IT HAS TO BE IN THE SAME FORMAT  
AND STYLE FOR THE ADDRESS AS WELL, FOR THOSE ARGUMENTS.

03:46:58 19

03:47:03 20

Q. NOW, IN YOUR EXPERIENCE IN THE INDUSTRY, IS THE ARGUMENT  
CONSIDERED PART OF THE COMMAND ITSELF?

03:47:06 21

03:47:12 22

03:47:16 23

03:47:21 24

A. NO. BECAUSE THERE CAN BE SO MANY DIFFERENT OPTIONS FOR  
WHAT THAT ARGUMENT CAN BE, IT CAN BE A PORT NUMBER, SO IT'S  
FROM 1 TO 65,000, IT CAN BE AN IP ADDRESS, IT CAN BE THE NAME  
SO IT'S A STRING OF CHARACTERS AND NUMBERS.

03:47:24 25

I MEAN, THE ARGUMENTS AREN'T PART OF WHAT'S IDENTIFIED AS

03:47:28 1 PART OF THE COMMAND ITSELF. AND REALLY, THIS IS THE WAY THAT  
03:47:33 2 IT'S DESCRIBED IN MANUALS.

03:47:36 3 IF YOU LOOK FOR EXAMPLE IN THE ARISTA MANUALS, YOU WILL  
03:47:39 4 SEE A LIST OF COMMANDS, AND IT DOESN'T IDENTIFY IN THE INDEX  
03:47:43 5 WHAT THE ARGUMENTS ARE, WHERE THE ARGUMENTS APPEAR, IT JUST  
03:47:47 6 SAYS HERE'S THE COMMANDS.

03:47:50 7 Q. SO I WOULD LIKE TO GO BACK TO THAT USABILITY STUDY WHICH  
03:47:58 8 WE ADMITTED AS 488.

03:48:03 9 A. YES.

03:48:03 10 Q. IS THERE A SECTION OF THAT DOCUMENT THAT'S TITLED "OVERALL  
03:48:07 11 PERFORMANCE" THAT HAS SOME GRAPHS?

03:48:11 12 A. YES.

03:48:12 13 Q. AND WHAT PAGE IS THAT?

03:48:13 14 A. MINE DOESN'T HAVE PAGE NUMBERS, BUT IF WE WERE ON 7  
03:48:19 15 BEFORE, I GUESS ABOUT PAGE 11 -- PAGE 13.

03:48:36 16 Q. SO CAN YOU TELL US WHAT THIS SHOWS?

03:48:39 17 A. SURE. SO THIS IS AN OVERALL PERFORMANCE. AND YOU SEE  
03:48:46 18 FOUR SETS OF VERTICAL BARS AND THEY ARE FOR SUPPORT, SYNTAX,  
03:48:52 19 COMPLEXITY AND SYSTEM HELP.

03:48:54 20 AND THERE'S DIFFERENT COLORS FOR IOS, WHICH IS BLUE, AND  
03:48:57 21 THAT'S CISCO. AND NX-OS, WHICH IS ALSO CISCO, AND THAT'S RED.  
03:49:02 22 AND THEN EOS, AND THAT'S GREEN.

03:49:10 23 AND THE TWO PARTS THAT ARE PARTICULARLY RELEVANT HERE ARE  
03:49:12 24 THE SYNTAX BARS AND THE SYSTEM HELP, THE SECOND AND THE THIRD.

03:49:16 25 YOU WILL SEE THAT THE AXIS, THE Y AXIS, THE VERTICAL AXIS

03:49:21 1 IS FROM 0 TO 5.0.

03:49:24 2 LET ME DIRECT YOU TO THE PREVIOUS PAGE 11. AND IT'S A  
03:49:30 3 LEGEND FOR WHAT 0 TO 5 MEANS AND FOR WHAT 0 TO 3 MEANS.

03:49:38 4 Q. RIGHT. SO IF WE ARE IN EXHIBIT 488, AND -- THIS IS THE  
03:49:43 5 PAGE YOU WERE REFERRING TO?

03:49:44 6 A. YES, SIR. AND THE ONE I WOULD LIKE YOU TO BLOW UP IS  
03:49:47 7 SYNTAX IN THE MIDDLE, INCLUDING THE TABLE BELOW IT.

03:49:51 8 AND SO THESE ARE THE SCORES, THE 1 THROUGH 5. AND NUMBER  
03:49:55 9 FIVE IS THE SYNTAX FOR THIS ACTION IS IDENTICAL TO IOS. SO  
03:50:00 10 THEY ARE COMPARING NX-OS, THEY ARE ACTUALLY COMPARING TWO CISCO  
03:50:04 11 PRODUCTS TO EACH OTHER. AND THEN THEY ARE ALSO COMPARING EOS.

03:50:09 12 SO IF WE GO BACK TO THE OVERALL PERFORMANCE GRAPH FOR THE  
03:50:14 13 SET OF THREE BARS FOR SYNTAX, WHAT IT SHOWS IS FOR IOS, AND YOU  
03:50:18 14 COMPARE IT TO ITSELF, IT'S GOING TO BE IDENTICAL. WHEN YOU  
03:50:22 15 COMPARE IOS TO EOS, THE SIMILARITY IS A SCORE OF ABOUT 4.25,  
03:50:29 16 MAYBE 4.3.

03:50:32 17 AND FOR EOS, IT'S ABOUT 4.7 OR 4.8. SO FIVE IS THE SYNTAX  
03:50:39 18 FOR THIS ACTION IS IDENTICAL TO IOS. AND FOR IOS TO EOS, YOU  
03:50:46 19 GET ABOUT A 4.7 OUT OF FIVE IDENTICAL COMPARISON.

03:50:51 20 Q. AND REMIND US, SIR, WHO WAS IT THAT CONDUCTED THIS SURVEY?

03:50:55 21 A. THIS IS FROM ARISTA.

03:50:57 22 Q. AND IN THE RED BAR, THAT'S FOR NX-OS; IS THAT RIGHT?

03:51:01 23 A. THAT'S CORRECT.

03:51:01 24 Q. AND NX-OS, WHAT IS THAT?

03:51:04 25 A. THAT'S ALSO A CISCO PRODUCT, AND IT'S ONE OF THE USER



03:51:09 1 INTERFACES AS WELL.

03:51:09 2 Q. SO IN TERMS OF THE GRAPH THAT YOU ARE SHOWING HERE, WHAT'S  
03:51:14 3 THE RELATIONSHIP IN TERMS OF THE COMMAND SYNTAX BETWEEN IOS AND  
03:51:20 4 NX-OS?

03:51:21 5 A. SO BETWEEN IOS AND NX-OS, THE TWO CISCO PRODUCTS, THEY ARE  
03:51:28 6 VERY SIMILAR, BUT THEY ARE NOT COMPLETELY IDENTICAL. AND THAT  
03:51:31 7 TELLS YOU SOMETHING ABOUT THE DIFFERENCE IN THE USER INTERFACES  
03:51:35 8 BETWEEN THE IOS AND NX-OS.

03:51:37 9 AND I THINK MR. KATHAIL TESTIFIED ABOUT THAT, THAT THERE  
03:51:41 10 WERE SOME DIFFERENT COMMANDS AND SOME OF THE CUSTOMERS WERE  
03:51:45 11 COMPLAINING BECAUSE THERE WERE SOME MINOR DIFFERENCES.

03:51:49 12 BUT WHAT'S ALSO INTERESTING IS THAT EVEN THOUGH THERE ARE  
03:51:53 13 THOSE MINOR DIFFERENCES BETWEEN IOS AND NX-OS, EOS IS ACTUALLY  
03:52:00 14 CLOSER TO IOS THAN IT IS TO NX-OS IN THIS RESULT.

03:52:05 15 Q. AND THAT'S TRUE FOR THE COMMAND SYNTAX?

03:52:08 16 A. THAT IS TRUE FOR THE COMMAND SYNTAX.

03:52:10 17 Q. IS THAT TRUE FOR ANY OTHER ASPECTS?

03:52:14 18 A. IT IS FOR THE SYSTEM HELP. AND LET'S SEE IF WE CAN WORK  
03:52:18 19 YOUR MAGIC. THE SYSTEM HELP LEGEND IS DISPLAYED THERE ON  
03:52:24 20 PAGE 12.

03:52:28 21 AND WHAT'S INTERESTING IS I'M GOING TO POINT YOU TO SCORE  
03:52:32 22 NUMBER THREE. THE LEVEL OF ASSISTANCE FOR THIS ACTION IS  
03:52:34 23 IDENTICAL TO IOS.

03:52:36 24 SO BEFORE 5, WAS SORT OF IDENTIFYING THAT THEY WERE  
03:52:40 25 IDENTICAL. HERE, IT'S THAT THEY'RE IDENTICAL IF THE SCORE IS

03:52:44 1 THREE. IF THE SCORE IS 5, NOW YOU HAVE SIGNIFICANTLY MORE  
03:52:51 2 ASSISTANCE FOR THIS ACTION.

03:52:53 3 SO IF WE NOW LOOK AT THE SYSTEM HELP SET OF THREE-BAR,  
03:52:57 4 WHAT YOU SEE IS THAT IOS COMPARED TO EOS, THAT THE LEVEL OF  
03:53:01 5 ASSISTANCE FOR THIS ACTION AS COMPARED BETWEEN IOS FROM CISCO  
03:53:05 6 AND EOS IN ARISTA IS THREE, EXACTLY. THAT LEVEL OF ASSISTANCE  
03:53:10 7 IS IDENTICAL TO IOS FOR SYSTEM HELP. NX-OS, THE OTHER CISCO  
03:53:15 8 PRODUCT IS VERY CLOSE TO BEING IDENTICAL.

03:53:19 9 Q. SO YOU AND I HAVE BEEN USING THIS TERM, I THINK I FOLLOWED  
03:53:24 10 YOUR LEAD, COMMAND SYNTAX?

03:53:27 11 A. YES.

03:53:27 12 Q. CAN YOU JUST EXPLAIN TO US WHAT THAT IS AND HOW IT RELATES  
03:53:31 13 TO THE COMMANDS?

03:53:32 14 A. SURE.

03:53:32 15 THE SYNTAX IS THE ORDER OF THE CHARACTERS AND THE WORDS AS  
03:53:39 16 PART OF THE MULTIWORD COMMAND. SO THAT'S THING THAT SAYS THIS  
03:53:43 17 WORD, FOLLOWED BY THIS WORD, BY THIS WORD, EACH WORD IS SPELLED  
03:53:48 18 ACCORDING TO THE WAY IT'S DESCRIBED IN THE COMMAND IS THE  
03:53:51 19 SYNTAX, IT'S WHAT THE COMMAND IS ITSELF.

03:53:54 20 Q. WOULD THAT ARGUMENT WE TALKED ABOUT EARLIER FIT INTO THAT  
03:53:58 21 AT ALL?

03:53:59 22 A. YES.

03:54:00 23 SO NORMALLY THE WAY THE MANUAL WAS DESCRIBE A COMMAND IS  
03:54:03 24 TO SAY HERE IS THE COMMAND, THEN IT WOULD IDENTIFY THAT THERE  
03:54:05 25 WAS AN ARGUMENT TO FOLLOW AND THE MANUAL WOULD LIKELY IDENTIFY

03:54:09 1 WHAT THE SYNTAX OF THE PARAMETER MIGHT BE, LIKE FOR EXAMPLE,  
03:54:15 2 THAT IT'S AN IP ADDRESS AND THAT IT SHOULD BE IN A PARTICULAR  
03:54:18 3 FORMAT.

03:54:18 4 Q. SO THEN IF WE GO BACK TO THE CHART THAT WE WERE LOOKING  
03:54:23 5 AT, EXHIBIT 488, AND WITH RESPECT TO SYNTAX, HOW DOES THAT  
03:54:33 6 INFORM YOUR OPINION AT ALL WITH RESPECT TO THE COMMAND PLUS THE  
03:54:36 7 ARGUMENT STRUCTURE?

03:54:38 8 A. IT TELLS YOU THAT THEY ARE NEARLY IDENTICAL FOR IOS, NX-OS  
03:54:44 9 AND EOS.

03:54:46 10 Q. NOW SIR, I WOULD LIKE TO MOVE FORWARD TO SLIDE 42, PLEASE.  
03:55:01 11 AND IN ADDITION TO THE DOCUMENTATION THAT WE WALKED THROUGH A  
03:55:07 12 BIT AND YOU DESCRIBED, WAS THERE ANYTHING ELSE YOU DID IN YOUR  
03:55:12 13 CONNECTION WITH THE ANALYSIS OF COPYING AND SUBSTANTIAL  
03:55:15 14 SIMILARITY?

03:55:15 15 A. THERE IS, AS PART OF MY METHODOLOGY I HOOKED UP A COMPUTER  
03:55:18 16 TO ALL OF THESE SWITCHES AND PERFORMED SOME TESTING AS WELL.

03:55:22 17 Q. NOW, THE SWITCHES, WHERE DID YOU GET ACCESS TO THOSE?

03:55:29 18 A. FOR THE ARISTA SWITCHES IT WAS AT THE LAW OFFICES OF  
03:55:33 19 ARISTA'S COUNSEL. AND THEN FOR THE CISCO SWITCHES THAT WAS AT  
03:55:37 20 THE LAW OFFICES OF CISCO'S COUNSEL.

03:55:38 21 Q. OKAY. WERE THE -- WHAT WAS THE SET UP OF THE ARISTA  
03:55:44 22 SWITCHES?

03:55:45 23 A. WELL, THE ARISTA SWITCHES, THEY WEREN'T CONNECTED TO THE  
03:55:48 24 NETWORK, THEY WERE CONNECTED TO POWER, SO IT WAS ESSENTIALLY A  
03:55:52 25 SWITCH SITTING ON THE TABLE, AND AS YOU CAN SEE IN THE UPPER

03:55:57 1 LEFT PICTURE, IT'S CONNECTED TO POWER THROUGH THE BLACK CABLE  
03:56:02 2 IN THE BACK, AND THEN IT CONNECTED TO MY COMPUTER SO THAT I  
03:56:06 3 COULD ENTER COMMANDS ON IT. AND THAT WAS ALL THE CONNECTIONS  
03:56:09 4 THAT EXISTED.

03:56:11 5 Q. SO WOULD IT BE NOT CONNECTED TO A NETWORK, WOULD THAT HAVE  
03:56:17 6 ANY AFFECT ON YOUR ANALYSIS?

03:56:19 7 A. IT DID. IT DIDN'T ALLOW ME TO TYPE IN THE FULL SET OF  
03:56:24 8 COMMANDS THAT WERE AT ISSUE. BECAUSE WITHOUT BEING CONNECTED  
03:56:28 9 TO THE NETWORK, WITHOUT RECEIVING DATA AND BEING ABLE TO  
03:56:32 10 CONFIGURE PARTICULAR PROTOCOLS, I WAS REALLY VERY LIMITED IN  
03:56:37 11 WHAT I COULD TYPE IN AND SEE.

03:56:43 12 BUT WHAT WAS USEFUL ABOUT DOING THAT TESTING WAS THAT FOR  
03:56:47 13 SOME COMMANDS I COULD COMPARE WHAT WAS IN THE MANUAL AND  
03:56:51 14 CONFIRM THAT SWITCHES WERE IMPLEMENTING COMMANDS THAT HAD  
03:56:54 15 OUTPUTS AND HELP DESCRIPTIONS THAT WERE SIMILAR TO WHAT WAS  
03:56:58 16 DESCRIBED IN THE MANUAL.

03:56:59 17 NOW THAT'S THE EXPECTATION, IT'S NOT LIKE YOU GET A MANUAL  
03:57:03 18 AND IT'S VERY DIFFERENT THAN THE WAY THAT THE SWITCH WORKS, BUT  
03:57:06 19 IT WAS GOOD TO JUST BE ABLE TO TYPE IN A FEW COMMANDS AND SEE  
03:57:09 20 THAT THAT'S WHAT WAS SUPPOSED TO BE HAPPENING.

03:57:13 21 Q. NOW IN TERMS OF THE ANALYSIS OF THE USER DOCUMENTATION?

03:57:18 22 THE COURT: COULD WE TAKE OUR BREAK BEFORE YOU MAKE  
03:57:20 23 THAT SWITCH? THAT WOULD BE GREAT.

03:57:22 24 LET'S TAKE OUR SECOND BREAK, AND LET'S MAKE IT FOR TEN  
03:57:25 25 MINUTES.

(RECESS FROM 3:57 P.M. UNTIL 4:07 P.M.)

THE COURT: WE ARE BACK ON THE RECORD AND ALL OF OUR JURORS ARE HERE.

MR. NELSON, YOU CAN CONTINUE WITH YOUR DIRECT EXAM.

MR. NELSON: THANK YOU, YOUR HONOR. AND I FOUND EXHIBIT 545 AT THE BREAK.

THE COURT: AND THE NUMBER ON THIS ONE?

MR. NELSON: IT'S EXHIBIT 545, YOUR HONOR.

THE COURT: OKAY.

MR. NELSON: MAY I PROCEED?

THE COURT: YES.

MR. NELSON: OKAY. THANK YOU.

Q. SO WE WERE TALKING A BIT, AND I COULDN'T FIND IT BUT NOW I FOUND IT, EXHIBIT 545, CAN YOU TAKE A LOOK AT THAT, DR. ALMEROOTH AND TELL ME WHAT IT IS?

A. THIS IS ARISTA'S RESPONSE FOR A SOURCING EVENT FOR LEAF. AND BASICALLY WHAT IT IS, IS IT'S A REPORT THAT'S PREPARED FOR AT&T AND PROVIDED BY ARISTA.

MR. NELSON: AT THIS POINT, I MOVE EXHIBIT 545 INTO EVIDENCE YOUR HONOR.

MR. VAN NEST: NO OBJECTION, YOUR HONOR.

THE COURT: IT WILL BE ADMITTED.

(PLAINTIFF'S EXHIBIT 545 WAS ADMITTED INTO EVIDENCE.)

MR. NELSON: THANK YOU.

Q. SO NOW I WOULD LIKE TO GO, AGAIN, TO PAGE 14 OF THE

04:09:04 1 DOCUMENT, IT'S THE NUMBERS AT THE BOTTOM, THE LAST ONES ARE  
04:09:09 2 845?

04:09:09 3 A. SECTION 2.5 ON TRAINING.

04:09:11 4 Q. CORRECT. SO DR. ALMEROOTH, CAN YOU EXPLAIN HOW  
04:09:24 5 EXHIBIT 545, AND IN PARTICULAR, THE SECTION 2.5 FORMED YOUR  
04:09:29 6 OPINION ABOUT ACCESS AND COPYING?

04:09:31 7 A. SURE.

04:09:32 8 THIS SECTION IS IMPORTANT, IT TALKS ABOUT TRAINING OF  
04:09:34 9 ENGINEERS WHO NEED TO, WHO WOULD NEED TRAINING TO USE ARISTA'S  
04:09:38 10 EQUIPMENT.

04:09:39 11 AND IT SAYS, "OFTEN CUSTOMERS ARE HESITANT TO DEPLOY AN  
04:09:43 12 INFRASTRUCTURE BASED ON A NEW VENDOR'S SOLUTION DUE TO THE COST  
04:09:49 13 OF TRAINING AN ENTIRE ARMY OF ENGINEERS TO DESIGN, IMPLEMENT  
04:09:53 14 AND OPERATE A NEW VENDOR SWITCH.

04:09:56 15 SIMPLY PUT, ARISTA'S EOS USES STANDARD INDUSTRY CLI FOR  
04:10:04 16 ITS SWITCHING PLATFORMS, AS SUCH, VERY OFTEN AN EXISTING  
04:10:07 17 CUSTOMER CAN COPY AND PASTE THE CONFIGURATIONS FROM THEIR  
04:10:10 18 EXISTING CISCO INFRASTRUCTURE ONTO AN ARISTA SWITCH, AND  
04:10:15 19 90 PERCENT PLUS OF COMMANDS WILL BE ACCEPTED."

04:10:17 20 Q. SO HOW DOES THAT INFORM YOUR OPINION, WHAT YOU JUST LOOKED  
04:10:25 21 AT THERE?

04:10:25 22 A. IF YOU HAVE 95 PERCENT PLUS OF COMMANDS THAT CAN BE CUT  
04:10:30 23 AND PASTED ON THE CONFIGURATION AS IT RUNS ON CISCO AND MOVE  
04:10:33 24 THAT TO AN ARISTA DEVICE WHERE YOU DON'T HAVE TO DO SAME KIND  
04:10:39 25 OF TRAINING BECAUSE YOU RELY ON CISCO'S USER INTERFACES, THAT'S

04:10:43 1 YOUR IMPORTANT EVIDENCE TO ME WITH RESPECT TO COPYING.

04:10:46 2 Q. OKAY. NOW IN ADDITION TO THE COMMANDS THEMSELVES, DOES  
04:10:49 3 THAT TELL YOU ANYTHING ABOUT THE ARGUMENT STRUCTURE THAT WE  
04:10:52 4 TALKED ABOUT EARLIER?

04:10:53 5 A. IT DOES.

04:10:54 6 MR. VAN NEST: OBJECTION. OUTSIDE THE SCOPE OF THE  
04:10:56 7 REPORT, YOUR HONOR.

04:10:57 8 THE COURT: IF YOU WOULD LIKE TO SHOW IT TO ME ON THE  
04:11:00 9 REPORT, WE CAN HAVE A SIDEBAR.

04:11:02 10 MR. NELSON: SURE.  
04:11:12 11 (SIDEBAR DISCUSSION ON THE RECORD.)

04:11:19 12 MR. NELSON: THANK YOU, YOUR HONOR.

04:11:20 13 SO IT'S AT THE REBUTTAL REPORT AT PARAGRAPH 79. AND IT'S  
04:11:27 14 ALSO IN HIS DEPOSITION AT PAGE 240, LINE 21, TO 241, LINE 11.

04:11:34 15 THE COURT: OKAY. LET ME LOOK AT THE REPORT. OH,  
04:11:38 16 THERE'S THE REPORT. THOSE ARE YOUR NOTES. AND WHAT PARAGRAPH  
04:11:42 17 WAS IT?

04:11:42 18 MR. NELSON: 79.

04:11:56 19 THE COURT: I DON'T SEE ANYTHING ABOUT ARGUMENTS  
04:11:58 20 THERE.

04:11:59 21 MR. PAK: YOUR HONOR, HE'S RESERVING -- DR. BLACK  
04:12:03 22 RAISED THIS ARGUMENT FOR THE FIRST TIME WITH RESPECT TO THE  
04:12:05 23 ARGUMENTS IN HIS EXPERT REPORT. HE SAYS HE DOESN'T UNDERSTAND  
04:12:08 24 THE METHODOLOGY. THEN HE WAS ASKED ABOUT THIS VERY SAME ISSUE  
04:12:11 25 AT HIS DEPOSITION.

04:12:13 1 MR. VAN NEST: WHICH PARAGRAPH?

04:12:14 2 MR. PAK: IT SAYS PARAGRAPH 79, THEN I WILL BRING THE  
04:12:16 3 DEPOSITION EXCERPT FOR YOUR HONOR AS WELL.

04:12:18 4 THE COURT: THE REPORT DOESN'T APPEAR TO SAY ANYTHING  
04:12:20 5 ABOUT THE ARGUMENTS.

04:12:21 6 MR. PAK: HE IDENTIFIES THE ARGUMENT WAS THE BASIS  
04:12:23 7 FOR DR. BLACK'S NONINFRINGEMENT OPINION ON COPYING. SO.

04:12:26 8 HE'S NOTING HERE IT'S A FAIR USE REBUTTAL REPORT. HE  
04:12:30 9 DOESN'T REALLY UNDERSTAND WHAT HE MEANS BY "COMMAND FRAGMENTS,"  
04:12:34 10 WHICH IS THIS ARGUMENT CONCEPT.

04:12:35 11 HE DIDN'T HAVE A NON -- HE DIDN'T HAVE A REBUTTAL EXPERT  
04:12:39 12 REPORT ON --

04:12:41 13 THE COURT: HE?

04:12:42 14 MR. PAK: DR. ALMEROOTH DID NOT HAVE A REBUTTAL EXPERT  
04:12:46 15 REPORT ON DR. BLACK'S REBUTTAL TESTIMONY OR NONINFRINGEMENT  
04:12:49 16 OPINIONS UNTIL THE DEPOSITION BECAUSE THAT'S WHERE IT WORKED.

04:12:52 17 HE WAS ASKED ABOUT THOSE OPINIONS IN THE DEPOSITION. I'M  
04:12:54 18 GOING TO BRING YOU THE DEPOSITION.

04:12:56 19 MR. VAN NEST: IT'S CLEAR IT'S NOT IN ANY REPORT.

04:12:59 20 THE COURT: ALL RIGHT. I DIDN'T SEE IT.

04:13:50 21 MR. PAK: YOUR HONOR, THIS IS PAGE 240, LINE 21 TO  
04:13:55 22 PAGE 241, LINE 11. AND DR. ALMEROOTH'S DEPOSITION.

04:14:03 23 THE COURT: OH, 240.

04:14:05 24 MR. VAN NEST: IS THIS JUNE 28TH, MR. PAK?

04:14:08 25 MR. PAK: YES.



04:14:15 1 MR. VAN NEST: THIS HAS NOTHING TO DO WITH THIS  
04:14:18 2 DOCUMENT AND IT HAS NOTHING TO DO WITH HIS ANALYSIS, IT HAS  
04:14:21 3 NOTHING TO DO WITH ANY COMPARISON OF ANYTHING.

04:14:40 4 THE COURT: ON PAGE 241 IT DOES APPEAR.

04:14:44 5 MR. PAK: YES, YOUR HONOR. AND HE WAS ASKED DIRECTLY  
04:14:46 6 ABOUT THAT.

04:14:47 7 MR. VAN NEST: WHERE YOUR HONOR?

04:14:48 8 THE COURT: I'M LOOKING AT PAGE 241, LINE 1 THROUGH,  
04:14:52 9 MAYBE 13.

04:14:53 10 MR. VAN NEST: HE'S NOW GOING TO MAKE SOME COMPARISON  
04:14:58 11 BETWEEN THE SYSTEMS THAT HE'S TALKING ABOUT. HE'S TALKING  
04:15:03 12 GENERALLY HERE ABOUT COMMAND ADDRESSES AND ARGUMENTS. HE'S NOT  
04:15:06 13 TESTIFYING TO ANY ANALYSIS.

04:15:08 14 THE COURT: WHERE IS THERE A COMPARISON?

04:15:13 15 MR. PAK: AT THE TOP IT BEGINS WITH ARISTA COUNSEL  
04:15:16 16 ASKING, "YOUR TESTIMONY IS IN FACT TO MAKE EACH SWITCH -- AND  
04:15:27 17 IN THE CASE OF ARISTA HAD A DIFFERENT SYNTAX THAN IN THE CASE  
04:15:30 18 OF CISCO, THAT WOULD BE IRRELEVANT TO THE EVALUATION OF WHETHER  
04:15:34 19 ONE COMMAND INFRINGES THE OTHER COMMAND'S COPYRIGHT.

04:15:38 20 THAT'S NOT WHAT I'M SAYING AT ALL. THEN HE GOES INTO THE  
04:15:41 21 WHOLE DESCRIPTION OF THE ARGUMENT.

04:15:42 22 MR. VAN NEST: YOUR HONOR, HE'S ALREADY SAID THAT, HE  
04:15:44 23 SAID THAT EARLIER.

04:15:45 24 THEY ARE NOW ASKING HIM TO MAKE AN ANALYSIS BASED ON A  
04:15:50 25 SPECIFIC DOCUMENT THAT'S AN ARISTA DOCUMENT THAT HE'S NOT BEING

04:15:53 1 QUESTIONED ABOUT ANYWHERE.

04:15:54 2 THE COURT: ALL RIGHT. I'M GOING TO SUSTAIN THE  
04:15:57 3 OBJECTION.

04:16:02 4 THE OBJECTION IS SUSTAINED.

04:16:08 5 BY MR. NELSON:

04:16:08 6 Q. SO THEN ON EXHIBIT 545, WITH RESPECT TO THE 90 PLUS  
04:16:17 7 PERCENT SIMILARITY OF THE COMMANDS, WHAT DOES THAT TELL YOU  
04:16:22 8 ABOUT THE COMMANDS IN THE TWO PRODUCTS?

04:16:23 9 MR. VAN NEST: OBJECTION. ASKED AND ANSWERED,  
04:16:24 10 YOUR HONOR.

04:16:25 11 THE COURT: WE CAN REPEAT IT, GO AHEAD.

04:16:27 12 THE WITNESS: IT TELLS ME THAT THEY ARE THE SAME, FOR  
04:16:30 13 THE 90 PERCENT, THAT THEY ARE THE SAME.

04:16:32 14 BY MR. NELSON:

04:16:33 15 Q. NOW, DR. ALMEROOTH, I WOULD LIKE TO GO FORWARD TO SLIDE  
04:16:39 16 FOUR FOR, IF WE CAN.

04:16:48 17 SO WHAT'S BEING SHOWN HERE ON SLIDE 44?

04:16:50 18 A. THIS IS THE LIST OF ARISTA'S USER DOCUMENTATION, AND IT'S  
04:16:56 19 PART OF WHAT I CONSIDERED IN FORMING MY OPINIONS WITH RESPECT  
04:16:58 20 TO COPYING.

04:16:59 21 Q. AND HOW WAS THAT RELEVANT TO YOUR OPINIONS?

04:17:03 22 A. WELL, IT'S RELEVANT BECAUSE YOU CAN FIND INSIDE OF THE  
04:17:07 23 USER MANUALS, YOU CAN FIND THE MULTIWORD COMMANDS, YOU CAN FIND  
04:17:12 24 THE OUTPUT DESCRIPTIONS, YOU CAN ALSO FIND SIMILARITIES IN THE  
04:17:18 25 USER MANUALS BETWEEN WHAT CISCO WAS DOING AND THE SAME THING

04:17:23 1 FOR THE HELP DESCRIPTIONS AS WELL.

04:17:27 2 Q. SO --

04:17:29 3 A. I'M SORRY, AND ALSO THE MODES AND PROMPTS AS WELL.

04:17:32 4 Q. SO IF YOU LOOK, IF WE JUST TAKE EXHIBIT 2, THAT YOU HAVE  
04:17:37 5 IN THE BIG BINDER, I THINK YOU HAVE AN EXCERPTED VERSION AS  
04:17:40 6 WELL, IN FRONT OF YOU. SO WHICHEVER YOU WOULD PREFER.

04:17:44 7 A. I WILL START WITH THE EXCERPTED, UNLESS YOUR QUESTIONS  
04:17:49 8 DELVE BEYOND WHAT I HAVE.

04:17:52 9 THE COURT: AND WHICH EXHIBIT IS THIS?

04:17:54 10 MR. NELSON: THIS WOULD BE EXHIBIT 2, YOUR HONOR.

04:17:57 11 THE COURT: AND THE FULL VERSION IS BEING ADMITTED?

04:17:59 12 MR. NELSON: CORRECT.

04:18:00 13 THE COURT: BEING OFFERED?

04:18:01 14 MR. NELSON: YEAH. WE WILL DO IT ELECTRICALLY.

04:18:04 15 THE COURT: THANK YOU.

04:18:04 16 BY MR. NELSON:

04:18:06 17 Q. THE IF YOU JUST LOOK AT EXHIBIT 2, THE EXCERPT YOU HAVE,  
04:18:13 18 DID ONE OF THE THINGS YOU MENTIONED WAS THE COMMANDS?

04:18:16 19 A. YES.

04:18:16 20 Q. SO WHERE WOULD THOSE BE SHOWN IN THE USER MANUALS?

04:18:21 21 A. THEY SHOW UP ON PAGE 3 OF THE DOCUMENT IS WHERE THEY  
04:18:27 22 START. BATES NUMBER ENDING IN 7246.

04:18:32 23 Q. SO THEN IF YOU LOOK AT, BACK TO SLIDE 44, YOU WILL SEE  
04:18:40 24 THERE'S LISTED THERE SEVERAL MANUALS FOR VARIOUS VERSIONS OF  
04:18:46 25 THE EOS OPERATING SYSTEM THAT IS RIGHT?

04:18:48 1  
04:18:48 2  
04:18:52 3  
04:18:53 4  
04:18:57 5  
04:19:04 6  
04:19:09 7  
04:19:13 8  
04:19:15 9  
04:19:16 10  
04:19:18 11  
04:19:24 12  
04:19:47 13  
04:19:48 14  
04:19:50 15  
04:19:50 16  
04:19:51 17  
04:19:52 18  
04:19:53 19  
04:19:54 20  
04:19:54 21  
04:19:56 22  
04:19:56 23  
04:19:57 24  
04:20:03 25

A. YES, SIR.

Q. NOW DID YOU CONSIDER ALL OF THOSE WHEN YOU FORMED YOUR  
OPINIONS?

A. I DID. THERE'S A USER MANUAL FOR EACH OF THE VERSIONS  
IDENTIFIED. AND JUST TO START WITH THE FIRST COUPLE, 4.0.1,  
4.10.0, AND THE LIST CONTINUES ON THROUGH THOSE RANGE OF  
EXHIBITS AND THEY ARE ALL FOR DIFFERENT VERSIONS OF ARISTA'S  
EOS. AND I LOOKED AT EACH ONE OF THEM.

Q. OKAY?

MR. NELSON: YOUR HONOR, AT THIS POINT, AND I WILL  
READ THEM INTO THE RECORD. I WOULD MOVE IN EXHIBIT NUMBER 2,  
4, 5, 6, 7, 14, 8, 9, 10, 11, 13, 12, 15, 1 AND NUMBER 3.

MR. VAN NEST: NO OBJECTION, YOUR HONOR.

THE COURT: WHAT WAS THE LAST NUMBER?

MR. NELSON: 3.

THE COURT: 3?

MR. NELSON: YES.

THE COURT: AND NO OBJECTION?

MR. VAN NEST: NO OBJECTION, YOUR HONOR.

THE COURT: THANK YOU. THEY WILL ALL BE ADMITTED.

(PLAINTIFF'S EXHIBIT 1 THROUGH 15, WERE ADMITTED INTO  
EVIDENCE.)

BY MR. NELSON:

Q. SO IF WE, LET'S JUST LOOK AT THE FIRST 1, EXHIBIT  
NUMBER 2, AND IT WILL PROBABLY BE EASIER IF WE PULL IT UP ON

04:20:06 1

THE SCREEN.

04:20:09 2

SO THE DATE ON THIS IS WHAT?

04:20:12 3

A. APRIL 8TH, 2009.

04:20:15 4

Q. AND IN TERMS OF THE VERSIONS OF OPERATING SYSTEMS THAT YOU

04:20:21 5

LOOKED AT IN THE CASE, WERE THERE ALSO LATER VERSIONS?

04:20:24 6

A. YES, THIS IS 4.0.1. AND THERE ARE ADDITIONAL VERSIONS.

04:20:30 7

USUALLY THAT SECOND NUMBER IS INDICATIVE OF WHAT THE VERSION

04:20:36 8

IS. SO THERE'S FOUR -- MOST OF THEM -- SORRY, CAN YOU GO BACK

04:20:42 9

TO SLIDE 44.

04:20:43 10

Q. SURE.

04:20:45 11

A. SO YOU CAN SEE THE NUMBERS HERE AND I CAN PROVIDE A LITTLE

04:20:48 12

BIT OF AN EXPLANATION. THEY ALL START WITH VERSION 4. AND

04:20:51 13

THEN THERE'S A DOT THEN ANOTHER VERSION AS WELL.

04:20:55 14

AND YOU WILL SEE SOMETHING LIKE VERSION 4.0, AND THEN THEY

04:20:59 15

WILL HAVE SORT OF A SUBVERSION AFTER THAT WHEN THE DOT ONE,

04:21:03 16

THEN YOU HAVE 4.10, 4.11, AND IN SOME CASES FOR EXAMPLE,

04:21:10 17

4.11.2.1, IT MEANS THEY MADE MORE MINOR CHANGES AND THEY HAD A

04:21:16 18

COUPLE OF DIFFERENT MINOR REVISIONS BEFORE GOING TO THE NEXT

04:21:19 19

MAJOR REVISION.

04:21:21 20

Q. THE NUMBERING HERE IS A LITTLE BIT STRANGE AND I THINK

04:21:26 21

MR. LANG TESTIFIED TO THIS, IF YOU THINK ABOUT THE WAY THAT THE

04:21:31 22

NUMBERING HAPPENS, YOU CAN HAVE SOMETHING LIKE 4.4, BUT THAT

04:21:36 23

COMES BEFORE 4.10.

04:21:40 24

IT'S NOT -- YOU KNOW, YOU THINK 4.10, 4.1 VERSUS 4.4

04:21:45 25

BECAUSE THE DECIMAL THAT COMES LATER, THE COMPUTER SCIENTISTS

04:21:50 1 ARE A LITTLE WEIRD SOMETIMES.

04:21:52 2 SO YOU HAVE TO LOOK AT THE WHOLE NUMBER BETWEEN THE  
04:21:54 3 DECIMALS TO DETERMINE THE ORDER. WE CAN CONFIRM THAT BY  
04:21:58 4 LOOKING AT THE DATES, FOR EXAMPLE.

04:22:00 5 Q. SO NOW LET'S GO BACK TO EXHIBIT 2. AND YOU HAD TALKED  
04:22:04 6 ABOUT THE THIRD PAGE OF THAT DOCUMENT WHICH IS THE LAST FOUR  
04:22:09 7 NUMBERS ARE 7246.

04:22:11 8 A. YES, SIR.

04:22:12 9 Q. AND YOU WILL SEE A HEADING TOO THERE THAT SAYS CLI  
04:22:16 10 COMMANDS?

04:22:16 11 A. YES, THAT'S CORRECT.

04:22:17 12 Q. AND WHAT'S THAT?

04:22:18 13 A. THAT'S THE TABLE OF CONTENTS, AND IT LISTS WHAT THE CLI  
04:22:23 14 COMMANDS ARE, IT STARTS OFF WITH THE INTERFACE RANGE SYNTAX ON  
04:22:28 15 PAGE 5 AND IT CONTINUES ON IN SUBSEQUENT PAGES, YOU CAN JUST  
04:22:34 16 SORT OF FLIP TO 7247, AND 7248, AND IT CONTINUES ON FOR A  
04:22:43 17 NUMBER OF OTHER PAGES.

04:22:46 18 MR. VAN NEST: OBJECTION, YOUR HONOR. MOVE TO  
04:22:48 19 STRIKE. THIS ALSO WAS NOT IN HIS REPORT.

04:22:51 20 THE COURT: THE WITNESS IS JUST DESCRIBING WHAT THE  
04:22:53 21 EXHIBIT IS, THEN I WILL ALLOW IT.

04:22:56 22 THE WITNESS: AND THE TABLE OF CONTENTS ENDS ON 7253.  
04:23:00 23 BY MR. NELSON:

04:23:00 24 Q. NOW WHEN YOU WENT THROUGH, I WON'T READ ALL THE NUMBERS  
04:23:04 25 IN, BUT THE VERSIONS THAT YOU LISTED THERE ON THE PREVIOUS

04:23:07 1 SLIDE, WHEN YOU WENT THROUGH ALL OF THOSE MANUALS, DID YOU FIND  
04:23:12 2 ALL OF THE COMMANDS, THE 506 COMMANDS?

04:23:15 3 A. YES, I DID.

04:23:16 4 Q. SO IF WE GO TO -- WELL, AND EXPLAIN WITH RESPECT TO THE  
04:23:27 5 DIFFERENT VERSIONS, HOW THE COMMANDS WORK THERE IN THE  
04:23:29 6 DIFFERENT VERSIONS OF THE MANUALS.

04:23:32 7 A. SURE. THE DIFFERENT MANUALS INTRODUCE ADDITIONAL COMMANDS  
04:23:37 8 OVER TIME.

04:23:37 9 SO IF YOU START OFF WITH AN EARLIER VERSION OF EOS,  
04:23:41 10 THERE'S A SMALLER NUMBER OF COMMANDS. THEN THERE'S A LARGER  
04:23:45 11 JUMP IN COMMANDS, I THINK ABOUT IN 2009. AND THE MANUALS GET  
04:23:49 12 LONGER AND THE TABLE OF CONTENTS AND THE LIST OF COMMANDS GET  
04:23:52 13 LONGER.

04:23:53 14 BUT OF THE 506 COMMANDS, SOME ARE FOUND IN MANY OF THE  
04:23:59 15 MANUALS AND SOME ARE FOUND IN LESS THAN ALL THE MANUALS. BUT I  
04:24:06 16 DID FIND ALL THE 506 COMMANDS IN ONE OR MORE OF THE ARISTA  
04:24:09 17 MANUALS.

04:24:10 18 Q. NOW I WOULD LIKE TO GO TO SLIDE 45, PLEASE. AND WHAT ARE  
04:24:20 19 YOU SHOWING HERE ON SLIDE 45?

04:24:22 20 A. THERE ARE TWO INTERROGATORIES THAT WERE SERVED TO ARISTA,  
04:24:26 21 AND AGAIN THOSE ARE QUESTIONS. YOU SEE AT THE BOTTOM OF THE  
04:24:31 22 PAGE THAT THERE'S A NUMBER WITH A DATE. AND THOSE ARE  
04:24:33 23 BASICALLY THE QUESTION NUMBERS. AND THERE'S TWO OF THEM SHOWN  
04:24:37 24 ON THIS DEMONSTRATIVE.

04:24:39 25 THE RESPONSE TO NUMBER 9 ON APRIL 26, 2016, AND WHAT THAT

04:24:45 1 INCLUDES IS A TABLE PROVIDED BY ARISTA FOR A PARTICULAR ACCUSED  
04:24:51 2 CLI COMMAND WHO THE EMPLOYEE WAS WITH KNOWLEDGE OF THE COMMAND,  
04:24:56 3 THE CREATION DEVELOPMENT, AND OR IMPLEMENTATION, AND THE  
04:25:00 4 APPROXIMATE DATE OF CREATION, DEVELOPMENT AND OR  
04:25:04 5 IMPLEMENTATION.

04:25:04 6 THE INTERROGATORY RESPONSE NUMBER 26 DATED MAY 27, 2016,  
04:25:11 7 IS FOR A SET OF COMMANDS, AND WHEN THE SOURCE CODE DATE OF WHEN  
04:25:17 8 THOSE COMMANDS FIRST APPEARED. AND THEN THE ARISTA PRODUCT, OF  
04:25:21 9 WHEN THOSE COMMANDS FIRST APPEARED, THAT SAME VERSION NUMBERING  
04:25:24 10 SYSTEM.

04:25:24 11 Q. AND HOW DID THOSE RESPONSES INFORM YOUR OPINION?

04:25:30 12 A. THEY INFORMED MY OPINION AS TO WHAT ARISTA COMMANDS THAT  
04:25:34 13 CISCO HAD ACCUSED, WHERE THEY WERE PRESENT, WHEN THEY BECAME  
04:25:38 14 PRESENT IN ARISTA'S MANUALS AND ALSO IN THEIR SOURCE CODE.

04:25:45 15 MR. NELSON: SO YOUR HONOR, THE RESPONSE TO  
04:25:48 16 INTERROGATORY NUMBER 9, I WOULD LIKE TO IDENTIFY IS 4822 AND  
04:25:52 17 MOVE THAT INTO EVIDENCE.

04:25:53 18 THE COURT: ANY OBJECTION?

04:25:54 19 MR. VAN NEST: I DON'T THINK THIS WAS WITHIN THE  
04:25:59 20 SCOPE OF THE AGREEMENT WE DISCUSSED EARLIER, YOUR HONOR. IT'S  
04:26:04 21 BEING GIVEN A NUMBER NOW.

04:26:05 22 MR. NELSON: WE CAN DISCUSS AT SIDEBAR, YOUR HONOR.

04:26:08 23 MR. VAN NEST: OR CAN WE PASS IT AND COME BACK TO IT.

04:26:12 24 THE COURT: WE CAN PASS IT AT NOW, JUST REMEMBER TO  
04:26:15 25 COME BACK IT AT 5 P.M.



04:26:17 1 MR. NELSON: OKAY.

04:26:19 2 Q. AND THEN INTERROGATORY -- THE RESPONSE TO INTERROGATORY  
04:26:21 3 NUMBER SIX, JUST SO WE HAVE IT ON THE RECORD, I WOULD LIKE TO  
04:26:25 4 IDENTIFY IS EXHIBIT 4823.

04:26:30 5 SO HOW DID THE INTERROGATORY RESPONSES, AGAIN, INFORM YOUR  
04:26:34 6 OPINION?

04:26:34 7 A. THEY WERE SOME OF THE EVIDENCE THAT I RELIED ON TO  
04:26:37 8 DETERMINE THAT THOSE COMMANDS WERE PRESENT IN THE ARISTA USER  
04:26:41 9 INTERFACES.

04:26:41 10 Q. NOW SIR, I WOULD LIKE TO MOVE FORWARD TO EXHIBIT 4800.  
04:26:56 11 AND THIS IS SHOWN ON SLIDE 47. SO CAN YOU TELL ME JUST IN  
04:27:06 12 GENERAL WHAT EXHIBIT 4800 IS?

04:27:07 13 A. SURE.

04:27:08 14 THIS IS A SUMMARY OF THE EXAMPLES OF COPYING THAT HAVE  
04:27:12 15 BEEN IDENTIFIED IN CISCO REFERENCE MATERIALS OR MANUALS AND  
04:27:19 16 WHERE THE CORRESPONDING COPIED INFORMATION CAN BE FOUND IN THE  
04:27:23 17 ARISTA USER MANUALS.

04:27:26 18 Q. NOW, IN TERMS OF THE USER MANUALS, ARE THOSE ORGANIZED BY  
04:27:36 19 PARTICULAR COMMANDS?

04:27:36 20 A. THEY ARE.

04:27:37 21 SO THERE'S A TABLE OF CONTENTS THAT IDENTIFIES WHAT THE  
04:27:39 22 COMMANDS ARE, AND THAT'S THE WAY THAT THE MANUALS ARE  
04:27:42 23 STRUCTURED. AND THEN WITHIN THESE EXAMPLES IT'S SHOWING  
04:27:47 24 PARTICULAR OUTPUTS FOR PARTICULAR COMMANDS, AND THAT'S HOW THE  
04:27:50 25 SUMMARY EXHIBIT IS ORGANIZED.

04:27:52 1 MR. NELSON: AT THIS POINT, I MOVE IN EXHIBIT 4800  
04:27:56 2 INTO EVIDENCE YOUR HONOR.

04:27:57 3 MR. VAN NEST: NO OBJECTION, YOUR HONOR.

04:27:58 4 THE COURT: IT WILL BE ADMITTED.

04:27:59 5 (PLAINTIFF'S EXHIBIT 4800 WAS ADMITTED INTO EVIDENCE.)

04:27:59 6 BY MR. NELSON:

04:28:00 7 Q. SO THEN, BASED UPON THE ANALYSIS YOU DID ON THE COMPARISON  
04:28:07 8 OF THE MANUALS, DID YOU FIND -- DID YOU REACH ANY CONCLUSION?

04:28:10 9 A. I DID, BASED ON THE EVIDENCE THAT'S INCLUDED IN THE  
04:28:15 10 SUMMARY EXHIBIT, I DETERMINED THAT THERE WERE COPYING -- THAT  
04:28:19 11 THERE WAS COPYING OF OUTPUTS BY ARISTA FROM CISCO MANUALS.

04:28:22 12 Q. AND I DON'T REMEMBER IF I ASKED YOU THIS, WITH RESPECT TO  
04:28:27 13 THE MULTIWORD COMMANDS, BUT WE TALKED ABOUT WHAT YOUR EVIDENCE  
04:28:30 14 WAS THAT YOU LOOKED AT.

04:28:33 15 WHAT WAS YOUR CONCLUSION WITH RESPECT TO COPYING ON THE  
04:28:38 16 506 ASSERTED MULTIWORD COMMANDS IN THE EOS?

04:28:43 17 A. THAT THERE WAS COPYING OF THOSE MULTIWORD COMMANDS IN THE  
04:28:49 18 ARISTA PRODUCTS.

04:28:49 19 Q. AND WHY DO YOU SAY THAT?

04:28:51 20 A. I SAY THAT BECAUSE OF THE 506 COMMANDS, I COULD FIND  
04:28:58 21 EVIDENCE OF WHERE EACH OF THOSE COMMANDS EXISTED WITHIN THE  
04:29:01 22 USER MANUALS.

04:29:01 23 AND IT WAS ALSO THROUGH THE ADDITIONAL TESTING THAT I DID  
04:29:04 24 AND THE OTHER EVIDENCE AND DEPOSITION TESTIMONY THAT I  
04:29:07 25 CONSIDERED THAT DEMONSTRATED THAT THERE WAS COPYING OF THOSE

04:29:13 1 SPECIFIC COMMANDS IN ARISTA.

04:29:15 2 Q. AND DID YOU REVIEW ANY CODE TO MAKE SURE THAT THEY WERE  
04:29:19 3 ACTUALLY IMPLEMENTED?

04:29:20 4 A. I DID.

04:29:21 5 Q. NOW, I WOULD LIKE TO GO TO SLIDE 49, NOW, MR. FISHER.  
04:29:38 6 AND WHAT ARE WE SHOWN HERE ON EXHIBIT 49?

04:29:41 7 A. THIS IS A SUMMARY EXHIBIT FOR THE MODES AND PROMPTS THAT  
04:29:45 8 EXIST IN BOTH CISCO AND ARISTA.

04:29:50 9 AND WHAT YOU SEE HERE IS WHERE IN THE CISCO MATERIALS YOU  
04:29:57 10 SEE THE COMMANDS AND PROMPTS, AND THEN WHERE THE COMMANDS AND  
04:30:02 11 PROMPTS APPEAR AND THE EOS VERSION NUMBERS AND THEN ALSO THE  
04:30:10 12 USE OF MODES AND PROMPTS IN DOCUMENTATION OF ARISTA.

04:30:14 13 MR. NELSON: AND AT THIS POINT, I WOULD MOVE  
04:30:17 14 EXHIBIT 4794 INTO EVIDENCE, YOUR HONOR.

04:30:19 15 MR. VAN NEST: NO OBJECTION.

04:30:20 16 THE COURT: IT WILL BE ADMITTED.

04:30:21 17 (PLAINTIFF'S EXHIBIT 4794 WAS ADMITTED INTO EVIDENCE.)

04:30:21 18 MR. NELSON: AND CAN WE PULL THAT UP ON THE TRIAL  
04:30:25 19 DIRECTOR.

04:30:31 20 Q. SO CAN YOU JUST SUMMARIZE WHAT YOU HAVE HERE IN  
04:30:35 21 EXHIBIT 4794?

04:30:36 22 A. SURE, FOR 4794, IT'S A SERIES OF COLUMNS ACROSS SEVERAL  
04:30:43 23 PAGES AND IT LISTS WHAT THE CISCO COMMAND MODE IS AND IT'S  
04:30:49 24 IDENTIFIED FOR EXAMPLE IN THIS FIRST PAGE AS USER EXEC. WHAT  
04:30:52 25 THE ARISTA COMMAND MODE IS AS EXEC AND THEN THAT THE TWO

04:30:57 1 PROMPTS, THE TWO GREATER THAN SIGNS ARE THE SAME.

04:30:59 2 IF YOU CONTINUE THROUGH THE PAGES, IT IDENTIFIES THE OTHER  
04:31:04 3 THREE MODES, AND THEN THERE'S A SEPARATE SET OF FIVE MODES FOR  
04:31:10 4 NX-OS THAT ARE SIMILAR.

04:31:12 5 AND BASED OF THE EVIDENCE THAT YOU'VE TALKED ABOUT THAT  
04:31:17 6 YOU REVIEWED, WHAT WAS YOUR CONCLUSION WITH RESPECT TO WHETHER  
04:31:20 7 THERE WAS COPYING OF THE PARTICULAR ARRANGEMENT OF THE MODES  
04:31:26 8 AND PROMPTS IN IOS?

04:31:27 9 A. BASED ON MY ANALYSIS THAT THERE WAS COPYING OF THE MODES  
04:31:33 10 AND PROMPTS, THE ONES THAT WERE IDENTIFIED IN EXHIBIT 4794.

04:31:36 11 Q. OKAY. AND WAS THAT SAME THING TRUE FOR ANY OF THE OTHER  
04:31:39 12 USER INTERFACES?

04:31:40 13 A. YES. SO THIS FIRST ONE DEALS WITH, IF YOU GO BACK TO THE  
04:31:45 14 FIRST PAGE, THE FIRST FOUR ARE WITH RESPECT TO IOS, IOS XE AND  
04:31:52 15 IOS XR. AND THEN THERE'S THE ADDITIONAL FIVE THAT STARTS ON  
04:31:59 16 PAGE 5 FOR NX-OS.

04:32:08 17 Q. AND WHAT WAS YOUR CONCLUSION?

04:32:10 18 A. THAT THERE WAS COPYING OF THE MODES AND PROMPTS BY ARISTA.

04:32:13 19 Q. NOW I WANT TO GO BACK TO EXHIBIT 4800, IF WE CAN PULL THAT  
04:32:17 20 UP, JUST SO THAT WE CAN SEE IT A LITTLE BIT BETTER AND THEN YOU  
04:32:21 21 CAN DESCRIBE THAT FOR US AGAIN.

04:32:23 22 SO THE -- CAN WE PULL UP -- THIS ISN'T THE RIGHT DOCUMENT.

04:32:35 23 SO 4800, AND LET'S JUST GO TO SLIDE 47. SO IN SLIDE 47,  
04:32:45 24 THE OUTPUTS NOW, I WANT TO TALK ABOUT THE OUTPUTS. SO CAN YOU  
04:32:48 25 JUST DESCRIBE FOR ME WHAT YOU SUMMARIZED IN EXHIBIT 4800 THAT

04:32:52 1 THE JURY WILL HAVE?

04:32:53 2 A. SURE.

04:32:54 3 SO THESE ARE FROM THE OUTPUTS OF COMMANDS, AND THE OUTPUTS  
04:33:00 4 AS THEY APPEAR WHEN YOU TYPE THE COMMANDS INTO A PROPERLY  
04:33:04 5 CONFIGURED AND ENABLED SWITCH, HOW THEY SHOW UP ON THE SCREEN  
04:33:07 6 OF THE USER INTERFACE.

04:33:07 7 AND IT IS EVIDENCE FOR THE OUTPUTS BEING COPIED IS BASED  
04:33:13 8 ON, FOR EXAMPLE, AT LEAST IN THIS SUMMARY EXHIBIT, THE USER  
04:33:19 9 MANUALS. AND SO YOU WILL SEE A ROW, THE TWO COLUMNS REPRESENT  
04:33:22 10 CISCO AND ARISTA, AND THERE'S A RED BOX AROUND THE PORTIONS  
04:33:27 11 THAT ARE THE SAME.

04:33:31 12 AND THEN THERE IS A LIST OF REFERENCES AT THE BOTTOM OF  
04:33:34 13 THE CELL WHERE YOU CAN FIND THAT INFORMATION IN THE CISCO  
04:33:38 14 MANUALS THAT REPRESENT WHAT THE OUTPUT ON THE SCREEN WOULD BE.

04:33:44 15 AND THEN THERE'S A CORRESPONDING SET OF REFERENCES TO THE  
04:33:47 16 ARISTA USER MANUALS WHERE YOU CAN SEE WHAT THEIR OUTPUT WOULD  
04:33:50 17 BE, AS IT WOULD BE REPRESENTED ON THE SCREEN.

04:33:53 18 Q. AND DID YOU DO THAT ANALYSIS WITH RESPECT TO EACH OF THE  
04:33:59 19 USER INTERFACES?

04:33:59 20 A. YES, I DID.

04:34:00 21 Q. AND WHAT WAS YOUR CONCLUSION?

04:34:02 22 A. THAT FOR EACH OF THE USER INTERFACES FOR IOS, IOS XR,  
04:34:12 23 IOS XE AND NX-OS, AS DESCRIBED IN THE SUMMARY EXHIBIT THERE  
04:34:14 24 WERE COPYING OF THE OUTPUTS FROM CISCO TO ARISTA'S EOS.

04:34:19 25 Q. SO I THINK WE COVERED THIS EARLIER BUT PROBABLY A GOOD

04:34:22 1 PLACE TO DO IT HERE, DO ALL COMMANDS FROM OUTPUT?

04:34:24 2 A. NO, NO, NOT ALL COMMANDS.

04:34:26 3 Q. AND WHY IS THAT?

04:34:28 4 A. THERE ARE SOME COMMANDS THAT ARE CONFIGURATION COMMANDS,  
04:34:33 5 THAT IF SUCCESSFUL, DON'T RETURN ANY RESPONSE. YOU GO FROM THE  
04:34:36 6 COMMAND BEING ENTERED ON ONE LINE TO -- BACK TO THE PROMPT  
04:34:41 7 AGAIN. SO IT'S, IT'S, IT DOESN'T GIVE YOU AN OUTPUT.

04:34:45 8 Q. SO NOW I WOULD LIKE TO GO TO SLIDE 50, PLEASE. AND THIS  
04:34:57 9 IS IN REFERENCE TO EXHIBIT 4795, DO YOU SEE THAT?

04:35:00 10 A. YES, SIR.

04:35:00 11 Q. AND CAN YOU TELL US WHAT THIS IS?

04:35:02 12 A. THIS IS A SUMMARY EXHIBIT FOR THE TECHNICAL DOCUMENTATION  
04:35:08 13 COPYING, THE USER MANUALS, AND IT HAS A SIMILAR FORMAT, IT HAS  
04:35:11 14 TWO COLUMNS, ONE FOR CISCO AND ONE FOR ARISTA, THERE ARE RED  
04:35:15 15 BOXES THAT HIGHLIGHT WHERE THERE IS COPYING FROM THE CISCO  
04:35:18 16 MANUAL TO THE ARISTA MANUAL.

04:35:21 17 AGAIN, AT THE BOTTOM OF THE CELL, FOR THE CISCO SIDE, IT  
04:35:25 18 IDENTIFIES WHAT CISCO MANUAL IT COMES FROM AND THE PAGE NUMBER.  
04:35:31 19 AND THEN FOR THE ARISTA SIDE IT IDENTIFIES WHERE THAT  
04:35:34 20 INFORMATION APPEARS IN THE ARISTA MANUALS.

04:35:37 21 AND YOU CAN SEE IN THE EXAMPLES IN THIS DEMONSTRATIVE THAT  
04:35:40 22 FOR EACH OF THE CELLS, THERE'S A NUMBER OF ARISTA MANUALS WHERE  
04:35:44 23 THIS INFORMATION APPEARS.

04:35:47 24 MR. NELSON: YOUR HONOR, AT THIS POINT I WOULD LIKE  
04:35:48 25 TO MOVE INTO EVIDENCE THE SUMMARY EXHIBIT 4795.

04:35:52 1 MR. VAN NEST: NO OBJECTION, YOUR HONOR.

04:35:53 2 THE COURT: IT WILL BE ADMITTED.

04:35:55 3 (PLAINTIFF'S EXHIBIT 4795 WAS ADMITTED INTO EVIDENCE.)

04:35:55 4 BY MR. NELSON:

04:36:02 5 Q. SO I WOULD LIKE TO TURN NOW TO YOUR HELP DESCRIPTION  
04:36:08 6 ANALYSIS AND PARTICULARLY WITH RESPECT TO THE IOS XR USER  
04:36:15 7 INTERFACE?

04:36:15 8 A. OKAY.

04:36:16 9 Q. SO WITH RESPECT TO THE IOS XR USER INTERFACE IN THE HELP  
04:36:24 10 DESCRIPTIONS, CAN YOU EXPLAIN TO US WHAT YOU DID?

04:36:25 11 A. SURE.

04:36:27 12 I LOOKED AT BOTH THE MANUALS FOR THE DESCRIPTION OF THE  
04:36:33 13 INTERFACES OR WHAT THE HELP MESSAGES WOULD BE, AND IN SOME  
04:36:40 14 INSTANCES AGAIN I CONFIRMED THAT BY TYPING THOSE INTO THE  
04:36:44 15 ARISTA SWITCHES THAT THEY WOULD BE THE SAME. AND I ALSO  
04:36:46 16 INSPECTED THE SOURCE CODE TO SEE THAT THOSE HELP DESCRIPTIONS  
04:36:50 17 WERE INCLUDED IN THE SOURCE CODE.

04:36:51 18 Q. AND -- SO DID YOU -- YOU SAID YOU LOOKED AT THE SOURCE  
04:37:05 19 CODE TO CONFIRM THAT THE HELP DESCRIPTIONS WERE THERE.

04:37:08 20 WAS ONE OF THE VERSIONS OF THE SOURCE CODE YOU LOOKED AT  
04:37:11 21 VERSION 5.1.4?

04:37:14 22 A. YES, IT WAS.

04:37:14 23 Q. OKAY. AND WHAT DID YOU FIND WITH RESPECT TO THE HELP  
04:37:21 24 DESCRIPTIONS THAT WERE IN VERSION 5.1.4 THAT YOU ALSO FOUND IN  
04:37:28 25 EOS?

04:37:29 1 A. I FOUND THAT THEY WERE THE SAME, THAT THE HELP  
04:37:32 2 DESCRIPTIONS THAT HAD BEEN IDENTIFIED WERE THE ONES THAT I  
04:37:35 3 FOUND IN THE SOURCE CODE IN 5.1.4 OF THE EOS.

04:37:40 4 Q. AND DO YOU RECALL HOW MANY THERE WERE?

04:37:42 5 A. A LITTLE MORE THAN 200, I THINK MAYBE ABOUT 216, IN THAT  
04:37:50 6 BALLPARK.

04:37:50 7 Q. OKAY. AND DO YOU RECALL WHAT THE SIMILARITY WAS BETWEEN  
04:37:55 8 WHAT YOU SAW IN IOS XR VERSION 5.1.4 VERSUS THE EOS THAT YOU  
04:38:05 9 LOOKED AT?

04:38:07 10 A. SO I LOOKED AT EOS 5.1.4 AND I LOOKED AT THE OTHER  
04:38:12 11 VERSIONS AS WELL. AND THEY WERE SIMILAR ACROSS ALL OF THE  
04:38:15 12 VERSIONS.

04:38:17 13 Q. IOS XR, VERSION 5.1.4 IS WHAT I'M TALKING ABOUT?

04:38:23 14 A. YES, THAT'S RIGHT.

04:38:25 15 THE COURT: LET'S CLARIFY THAT. COULD WE GO BACK  
04:38:27 16 OVER THAT, IT'S A LITTLE MUDDLED.

04:38:30 17 MR. NELSON: YES, ABSOLUTELY.

04:38:32 18 Q. SO TALKING ABOUT THE IOS XR VERSION THAT YOU LOOKED AT FOR  
04:38:36 19 DETERMINING WHAT WAS IN THE IOS XR USER INTERFACE, OKAY?

04:38:39 20 A. OKAY. CORRECT. I UNDERSTAND.

04:38:45 21 YEAH. THE 216 THAT WERE PRESENT IN 5.1.4 OF THE IOS XR,  
04:38:49 22 SORT OF THE SOURCE OF THE COPYING, WAS THIS THE OTHER VERSIONS  
04:38:52 23 OF IOS XR AS WELL.

04:38:53 24 SO FOR EXAMPLE, 5.2 --

04:38:56 25 MR. VAN NEST: OBJECTION, YOUR HONOR.



04:38:57 1 MOVE TO STRIKE. OUTSIDE HIS REPORT.

04:39:02 2 THE COURT: I WILL LET YOU LAY A FOUNDATION FOR THAT.

04:39:05 3 I THINK YOU'VE GOT TO EXPLAIN THAT.

04:39:07 4 BY MR. NELSON:

04:39:07 5 Q. DID YOU ALSO LOOK AT VERSION 5.2?

04:39:10 6 A. I DID.

04:39:10 7 Q. OKAY. AND WHAT'S YOUR UNDERSTANDING FOR IF A -- FIRST OF  
04:39:17 8 ALL?

04:39:18 9 MR. VAN NEST: OBJECTION, YOUR HONOR.

04:39:20 10 I MOVE TO STRIKE THE LAST ANSWER AS NOT DISCLOSED IN HIS  
04:39:23 11 REPORT.

04:39:25 12 THE COURT: I GUESS YOU ARE GOING TO HAVE TO SHOW ME  
04:39:27 13 THE REPORT AGAIN.

04:39:32 14 MR. NELSON: WHY DON'T YOU MOVE TO A NEW TOPIC NOW,  
04:39:35 15 YOUR HONOR, AND THEN WE CAN COME BACK TO THIS WHILE I FIND  
04:39:40 16 THAT.

04:39:41 17 THE COURT: OKAY.

04:39:42 18 BY MR. NELSON:

04:39:42 19 Q. SO DR. ALMEROOTH, WHAT WAS YOUR CONCLUSION WITH RESPECT TO  
04:39:46 20 THE SIMILARITY OR THE COPYING OF THE HELP DESCRIPTIONS FROM THE  
04:39:54 21 IOS XR?

04:39:55 22 A. THAT THERE WAS, IN FACT, COPYING FROM IOS XR INTO THE  
04:40:00 23 ARISTA EOS.

04:40:12 24 MR. NELSON: YOUR HONOR, AT THIS POINT I PROBABLY DO  
04:40:14 25 NEED TO TALK ABOUT THE INTERROGATORY RESPONSE. WE CAN DO IT

04:40:19 1 LATER, BUT I'M GOING TO BE FINISHED --

04:40:21 2 THE COURT: I'M PREPARED TO TAKE A SIDEBAR, I WAS A  
04:40:24 3 LITTLE BIT CONFUSED BY THAT SO I NEED TO HEAR A LITTLE BIT  
04:40:28 4 MORE.

04:40:28 5 MR. VAN NEST, CAN WE HAVE A SIDEBAR ON THE INTERROGATORY.

04:40:31 6 MR. VAN NEST: CERTAINLY.

04:40:42 7 (SIDEBAR DISCUSSION ON THE RECORD.)

04:40:42 8 THE COURT: I AM CONFUSED ABOUT WHY THERE'S ANY  
04:40:44 9 OBJECTION TO AN INTERROGATORY RESPONSE YOUR CLIENT GAVE.

04:40:47 10 MR. VAN NEST: I WAS CONFUSED AND SURPRISED,  
04:40:50 11 YOUR HONOR, FOR TWO REASONS.

04:40:51 12 ONE, THESE WERE NEVER DISCLOSED FOR THIS WITNESS ON THE  
04:40:55 13 LIST. AND WHEN HE TOOK THE ROGS AND GAVE THEM A TRIAL NUMBER  
04:41:02 14 RIGHT THERE ON THE SPOT, I WAS CONFUSED BECAUSE WE HAD HAD A  
04:41:05 15 LOT OF DISCUSSION THIS WEEK ABOUT WHAT IS GOING IN AND WHAT  
04:41:09 16 ISN'T.

04:41:10 17 AND THIS IS NOT SOMETHING THAT WAS -- I DON'T THINK WAS  
04:41:13 18 WITHIN THE SCOPE OF OUR AGREEMENT AT ALL. I THOUGHT WE AGREED  
04:41:20 19 ON WHAT ALL THE EXHIBITS WOULD BE HERE THAT ARE SUMMARIES. AND  
04:41:22 20 THEN I DIDN'T SEE IT ON THIS LIST FOR THIS WITNESS, SO I WAS  
04:41:28 21 SURPRISED, THAT'S ALL.

04:41:29 22 MR. NELSON: SO TWO THINGS, YOUR HONOR.

04:41:31 23 THE SLIDE IN THE DEMONSTRATIVE, THEY DIDN'T OBJECT TO. IN  
04:41:34 24 TERMS OF MOVING THEM IN, WAS NECESSARY BY THE FACT THAT THEY  
04:41:37 25 DIDN'T -- THEY CONTESTED THE SUMMARY EXHIBIT. WE HAVE BEEN

04:41:40 1 THROUGH THAT.

04:41:41 2 SO THESE ACTUALLY HAVE EXACTLY THE COMMAND STRUCTURES THAT  
04:41:44 3 WE TALKED ABOUT.

04:41:45 4 THE COURT: THAT'S THE RESPONSE TO THE INTERROGATORY?

04:41:48 5 MR. NELSON: CORRECT. HAVE EXACTLY THE COMMAND  
04:41:50 6 STRUCTURES WHO AUTHORED THEM AND WHEN THEY WENT IN, IN EXACTLY  
04:41:55 7 THE FORM THAT THEY WERE IN, IN THE SUMMARY DOCUMENT THAT THEY  
04:41:57 8 OBJECTED TO.

04:41:58 9 SO IT'S --

04:41:59 10 THE COURT: OKAY. SO HERE WE ARE, LET ME JUST  
04:42:01 11 EXPLAIN.

04:42:01 12 IF THE OBJECTION IS THAT THEY WEREN'T DISCLOSED IN THE  
04:42:04 13 48 HOURS IN ADVANCE OF THE TESTIMONY, THEN I WILL LET YOU BRING  
04:42:07 14 THIS WITNESS BACK IN TO CURE THE TIME ISSUE BECAUSE THAT'S THE  
04:42:10 15 ONLY PLAUSIBLE OBJECTION.

04:42:12 16 AND YOU ARE NOT GOING TO HAVE RESTED, SO YOU CAN DO IT  
04:42:15 17 TOMORROW. I MEAN, I DON'T KNOW WHAT -- THIS IS NOT A FIGHT WE  
04:42:18 18 SHOULD HAVE, BUT IF YOU WANT MORE PREPARATION, IT'S FINE.

04:42:21 19 MR. VAN NEST: BECAUSE OF THE BACK AND FORTH ON WHAT  
04:42:23 20 SUMMARIES WERE COMING IN AND WHAT WERE OUT AND THE DISCUSSION  
04:42:27 21 WE HAD TODAY, I WAS NOT PREPARED.

04:42:29 22 THE COURT: I UNDERSTAND. THAT'S NOT A SUMMARY,  
04:42:30 23 THAT'S YOUR CLIENT'S INTERROGATORY RESPONSE, AND IT GENERALLY  
04:42:33 24 COMES IN.

04:42:34 25 MR. VAN NEST: YOUR HONOR IS CORRECT.

04:42:35 1 BUT GIVEN THE NATURE OF OUR ARGUMENTS ON DISCOVERY AND  
04:42:40 2 WHAT SUMMARIES ARE GOING IN THIS WEEK, THIS SHOULD HAVE BEEN  
04:42:44 3 SOMETHING I WAS TOLD AHEAD OF TIME WE WERE GOING TO DO.

04:42:46 4 THE COURT: I AGREE. SO YOU WILL HAVE TO BRING HIM  
04:42:48 5 BACK TO TOMORROW TO DO THIS.

04:42:52 6 MR. NELSON: HE WILL BE BACK TOMORROW.

04:42:53 7 THE COURT: I KNOW HE IS. I AM JUST GIVING YOU THE  
04:42:56 8 TIME IF YOU WANT TO DO IT.

04:42:59 9 EXCELLENT. THEN LET'S MOVE ON. EVEN IF YOU ARE DONE, YOU  
04:43:02 10 CAN RECALL HIM.

04:43:03 11 MR. NELSON: THANK YOU, YOUR HONOR. I APPRECIATE IT.

04:43:13 12 THE COURT: ALL RIGHT. LET'S MOVE ON.

04:43:14 13 MR. NELSON: MAY I PROCEED, YOUR HONOR?

04:43:15 14 THE COURT: YES, YOU MAY.

04:43:16 15 BY MR. NELSON:

04:43:17 16 Q. SO THEN IF WE GO TO SLIDE 51.

04:43:22 17 NOW, CAN YOU JUST SUMMARIZE WHAT YOUR CONCLUSIONS WERE  
04:43:28 18 WITH RESPECT TO FIRST, THE FOUR ELEMENTS OF THE USER INTERFACES  
04:43:31 19 THAT WE TALKED ABOUT?

04:43:32 20 A. SURE. THE FOUR ELEMENTS OF THE USER INTERFACE, AND THAT  
04:43:38 21 WAS FOR THE FOUR USER INTERFACES, SO IOS, IOS XR, EOS AND  
04:43:46 22 NX-OS, FOR EACH OF THOSE FOUR ELEMENTS, ARISTA HAD DIRECTLY  
04:43:49 23 COPIED THOSE ELEMENTS.

04:43:51 24 IT'S ALSO THE CASE THAT ARISTA HAD ACCESS TO THOSE WORKS  
04:43:56 25 AND THE WORKS WERE THE SAME, IF NOT IDENTICAL TO CISCO.

04:43:59 1 Q. AND HOW ABOUT WITH RESPECT TO THE USER DOCUMENTATION THAT  
04:44:03 2 YOU REVIEWED?

04:44:03 3 A. THE SAME FOR THE USER DOCUMENTATION. I CONCLUDED AFTER  
04:44:09 4 LOOKING AT THE EVIDENCE THAT ARISTA HAD DIRECTLY COPIED THAT  
04:44:11 5 USER DOCUMENTATION AND THAT ALSO FOR ACCESS TO THE  
04:44:16 6 DOCUMENTATION AND THAT IT WAS THE SAME, IF NOT IDENTICAL, TO  
04:44:20 7 CISCO.

04:44:21 8 MR. NELSON: THANK YOU, SIR.

04:44:22 9 AT THIS POINT I DON'T HAVE ANY FURTHER QUESTIONS, AND I  
04:44:24 10 WILL PASS THE WITNESS, YOUR HONOR.

04:44:26 11 THE COURT: ALL RIGHT.

04:44:28 12 MR. VAN NEST, WOULD YOU LIKE TO GET STARTED ON YOUR  
04:44:30 13 CROSS-EXAMINATION?

04:44:30 14 MR. VAN NEST: I CERTAINLY CAN, YOUR HONOR.

04:44:32 15 IT WILL TAKE US A MOMENT TO GET --

04:44:35 16 THE COURT: WE ALL HAVE TO MOVE A FEW THINGS OVER, I  
04:44:38 17 AGREE.

04:44:51 18 MR. VAN NEST: MORE BINDERS.

04:45:21 19 THE COURT: ANY OBJECTION TO DR. ALMEROOTH TAKING A  
04:45:22 20 LOOK?

04:45:23 21 MR. VAN NEST: NO, NO, WE ARE GOING TO BE GOING  
04:45:26 22 THROUGH THOSE.

04:45:27 23 THE COURT: OKAY.

04:45:52 24 MR. VAN NEST: YOUR HONOR, I'M READY TO START WITH  
04:45:54 25 WHEN YOU ARE?

04:45:55 1

THE COURT: DR. ALMEROTH, ARE YOU READY?

04:45:56 2

THE WITNESS: YES.

04:45:57 3

THE COURT: ALL RIGHT. GO AHEAD, MR. VAN NEST.

04:45:57 4

**CROSS-EXAMINATION**

04:46:00 5

BY MR. VAN NEST

04:46:00 6

Q. GOOD AFTERNOON, GOOD AFTERNOON DR. ALMEROTH.

04:46:02 7

A. GOOD AFTERNOON.

04:46:03 8

Q. IN ADDITION TO YOUR TEACHING IN RECENT YEARS, YOU'VE ALSO

04:46:06 9

BECOME A PROFESSIONAL EXPERT WITNESS; ISN'T THAT RIGHT?

04:46:09 10

A. NO, I DON'T THINK SO.

04:46:10 11

Q. AS A MATTER OF FACT, IN THE LAST FOUR YEARS YOU'VE

04:46:15 12

TESTIFIED IN COURT OR IN DEPOSITION APPROXIMATELY 40 TIMES,

04:46:21 13

RIGHT?

04:46:22 14

A. THAT SOUNDS ABOUT RIGHT.

04:46:24 15

Q. AND YOU'VE TESTIFIED ON A WIDE RANGE OF TOPICS, INCLUDING

04:46:28 16

DIGITAL MUSIC PLAYERS?

04:46:31 17

A. YES.

04:46:31 18

Q. POD CASTING?

04:46:34 19

A. YES.

04:46:36 20

Q. CABLE TV?

04:46:38 21

A. YES.

04:46:38 22

Q. WEARABLE FINANCE DEVICES LIKE FITBIT?

04:46:42 23

A. YES.

04:46:43 24

Q. INTERNET SEARCHING AND ADVERTISING?

04:46:46 25

A. YES.

04:46:51 1 Q. E-MAIL MONITORING?

04:46:52 2 A. YES.

04:46:52 3 Q. AND MANY OTHER AREAS AS WELL, RIGHT?

04:46:57 4 A. I DON'T KNOW IF IT'S THAT MANY MORE THAN THAT, I WOULD BE

04:47:00 5 SURPRISED.

04:47:01 6 Q. NOW, YOU'VE ALSO RECEIVED HUNDREDS OF THOUSANDS OF DOLLARS

04:47:07 7 FROM CISCO IN RESEARCH GRANTS, RIGHT?

04:47:11 8 A. YES, THAT'S CORRECT, COMPETITIVE RESEARCH GRANTS.

04:47:14 9 Q. AS A MATTER OF FACT, YOU HAVE A RELATIONSHIP WITH CISCO

04:47:20 10 GOING BACK ALMOST 20 YEARS?

04:47:24 11 A. I DO, IN VARIOUS FORMS. IN SOME CASES, IT'S KNOWING

04:47:28 12 PEOPLE AT CISCO.

04:47:30 13 Q. THE FIRST MONEY THAT YOU RECEIVED FROM CISCO WAS BACK IN

04:47:35 14 APPROXIMATELY 1998, WHEN YOU RECEIVED ALMOST \$100,000 IN A

04:47:40 15 RESEARCH GRANT, CORRECT?

04:47:42 16 A. THAT'S CLOSE. IT WASN'T -- THOSE RESEARCH GRANTS DON'T GO

04:47:46 17 TO ME, THEY GO TO THE UNIVERSITY. I DON'T RECEIVE THAT MONEY.

04:47:50 18 Q. BUT YOU WERE THE ONE THAT GOT CREDIT FOR IT, RIGHT?

04:47:53 19 A. I'M NOT SURE WHAT YOU MEAN BY GOT CREDIT.

04:47:56 20 Q. WELL, IN OTHER WORDS, ONE OF YOUR JOBS AS UNIVERSITY

04:47:59 21 PROFESSOR IS TO ATTRACT FUNDING FOR RESEARCH AT THE UNIVERSITY,

04:48:03 22 CORRECT?

04:48:03 23 A. YES.

04:48:03 24 Q. AND YOU ACTUALLY TAKE CREDIT IN YOUR RESUME FOR FUNDING

04:48:09 25 FROM CISCO AND OTHERS OVER THE YEARS, RIGHT?

04:48:11 1 A. I DO.

04:48:12 2 Q. SO THE VERY FIRST GRANT MONEY THAT YOU RECEIVED FROM CISCO

04:48:17 3 WAS ALMOST \$100,000, 18 YEARS AGO IN 1998, ISN'T THAT RIGHT?

04:48:23 4 A. THAT SOUNDS ABOUT RIGHT.

04:48:24 5 Q. AND THEN IN '99, YOU GOT ANOTHER \$125,000?

04:48:30 6 A. CERTAINLY POSSIBLE.

04:48:32 7 Q. AND IN 2000, 84,000?

04:48:36 8 A. YES.

04:48:40 9 Q. 2001, 50,000?

04:48:42 10 A. YES.

04:48:43 11 Q. ANOTHER \$100,000 IN 2003?

04:48:46 12 A. THAT'S CORRECT.

04:48:48 13 Q. ANOTHER 80,000 IN 2004?

04:48:51 14 A. YES -- SOMEWHERE IN THIS LIST, SOME OF THE MONEY WENT TO

04:48:55 15 UT DALLAS WHERE ONE OF MY STUDENTS WAS, SO I'M NOT SURE WHICH

04:49:00 16 IN THAT LIST IT IS.

04:49:01 17 Q. SO IN OTHER WORDS, YOU GOT THE CREDIT, BUT IT WENT TO TWO

04:49:05 18 DIFFERENT INSTITUTIONS?

04:49:06 19 A. NO, I WOULDN'T SAY THAT.

04:49:07 20 Q. AND THEN YOU GOT ANOTHER \$100,000 JUST PRIOR TO THE FILING

04:49:12 21 OF THIS LAWSUIT, RIGHT? IN 2013 AND 2014?

04:49:17 22 A. I'M NOT SURE WHEN THIS LAWSUIT WAS FILED.

04:49:21 23 Q. WELL, IT WAS FILED IN DECEMBER OF 2014, THAT'S BEEN THE

04:49:25 24 TESTIMONY, YOU'VE BEEN HERE IN THE COURTROOM?

04:49:27 25 A. I HAVE.



04:49:28 1

Q. DR. ALMEROTH.

04:49:30 2

A. IT'S JUST NOT SOMETHING THAT REGISTERS WITH ME.

04:49:34 3

Q. I SKIPPED ONE, IN '07 AND '08 YOU GOT ANOTHER HUNDRED

04:49:38 4

THOUSAND, RIGHT?

04:49:39 5

A. IF THAT'S WHAT MY RESUME SAYS, MY RESUME IS CORRECT.

04:49:42 6

Q. OKAY. THEN IN 2013 AND '14 ANOTHER \$100,000?

04:49:48 7

A. I'M LOSING TRACK IF YOU'RE GOING BACK --

04:49:51 8

Q. I'M COMING FORWARD.

04:49:52 9

A. WELL, YOU WENT BACK AND JUMPED FORWARD.

04:49:55 10

I THINK MY RESUME IS ACCURATE. I'VE HAD LOTS OF

04:49:58 11

RELATIONSHIPS WITH COMPANIES AND RECEIVED RESEARCH FUNDING AT

04:50:00 12

THE UNIVERSITY TO WORK WITH THEM.

04:50:01 13

Q. OKAY. BUT IN THIS INSTANCE, YOU DIDN'T EXPLAIN DURING

04:50:08 14

YOUR CREDENTIALS THAT OVER THE PAST 15 TO 18 YEARS, YOU HAVE

04:50:15 15

SOLICITED AND RECEIVED ALMOST \$800,000 IN GRANT MONEY FROM

04:50:19 16

CISCO, RIGHT?

04:50:20 17

A. I DIDN'T MENTION THAT SPECIFICALLY, BUT I DID MENTION

04:50:24 18

COLLABORATING WITH CISCO. I DIDN'T MENTION AMOUNTS THAT I HAD

04:50:27 19

RECEIVED FROM ANY OF THE OTHER PARTNERS WHEN THERE WERE

04:50:32 20

RESEARCH GRANTS INVOLVED.

04:50:33 21

Q. NOW ARE YOU WORKING ON A CISCO FUNDED PROJECT NOW? APART

04:50:37 22

FROM THIS LAWSUIT I MEAN?

04:50:38 23

A. AT THE UNIVERSITY.

04:50:39 24

Q. YES?

04:50:39 25

A. NO.

04:50:40 1 Q. ARE YOU APPLYING FOR ANY CISCO MONEY AT THE PRESENT TIME?

04:50:42 2 A. NO.

04:50:43 3 Q. NOW DR. ALMEROOTH YOU STATED EARLIER THAT INDUSTRY

04:50:54 4 STANDARDS ARE IMPORTANT IN NETWORKING?

04:50:55 5 A. YES.

04:50:56 6 Q. AND INDUSTRY STANDARDS ARE TECHNICAL SPECIFICATIONS THAT

04:51:02 7 ALLOW PROCESSES TO WORK IN THE SAME WAY, RIGHT?

04:51:04 8 A. THAT'S A LITTLE BIT VAGUE. GENERALLY I WOULD AGREE WITH

04:51:08 9 YOU, BUT IF YOU LOOK AT THE INDUSTRY STANDARDS FROM THINGS LIKE

04:51:12 10 IEEE AND IETF, THEY'RE SPECIFICALLY FOR PROTOCOLS WHERE HAVING

04:51:19 11 THE EXACT SAME OPERATION ON BOTH SIDES IS CRITICAL.

04:51:21 12 Q. OKAY. FAIR ENOUGH. AND THERE ARE A NUMBER OF STANDARD

04:51:25 13 SETTING ORGANIZATIONS THAT PROMULGATE THOSE PROTOCOLS FOR

04:51:28 14 NETWORKING, RIGHT?

04:51:29 15 A. GENERALLY, YES.

04:51:30 16 Q. AND YOU MENTIONED YOU'RE A FELLOW OF THE IEEE, THAT'S ONE

04:51:33 17 GROUP THAT ISSUES PROTOCOLS AND STANDARDS?

04:51:38 18 A. THAT'S CORRECT.

04:51:39 19 Q. AND THEN YOU MENTIONED THE IETF, THAT'S THE INTERNET

04:51:44 20 ENGINEERING TASK FORCE?

04:51:46 21 A. YES, SIR.

04:51:46 22 Q. YOU'VE ALSO PARTICIPATED IN THAT?

04:51:48 23 A. YES, SIR.

04:51:49 24 Q. AND THE GOAL OF THESE ORGANIZATIONS IS TO PREPARE

04:51:53 25 STANDARDS SO THAT NETWORKING DEVICES FROM VARIOUS COMPANIES CAN

04:51:57 1  
04:51:58 2  
04:52:01 3  
04:52:07 4  
04:52:13 5  
04:52:14 6  
04:52:17 7  
04:52:17 8  
04:52:20 9  
04:52:21 10  
04:52:25 11  
04:52:25 12  
04:52:27 13  
04:52:33 14  
04:52:33 15  
04:52:34 16  
04:52:38 17  
04:52:42 18  
04:52:42 19  
04:52:46 20  
04:52:50 21  
04:52:52 22  
04:52:55 23  
04:52:58 24  
04:53:01 25

WORK TOGETHER, RIGHT?

A. NO, IT'S NOT QUITE RIGHT.

Q. ACTUALLY, WHAT YOU SAID IN YOUR REPORT WAS THAT A KEY OBJECTIVE OF THE SSO, IS TO FACILITATE INTEROPERABILITY BETWEEN DEVICES WITHIN A TECHNOLOGY, RIGHT?

A. THAT'S RIGHT. WITHIN A TECHNOLOGY.

Q. OKAY.

A. AND THAT WAS MY DISAGREEMENT WITH YOUR QUESTION.

Q. OKAY.

A. IT'S WITHIN THE TECHNOLOGY SPECIFICALLY, THE PROTOCOLS THEMSELVES.

Q. OKAY. AND THESE STANDARD SETTING ORGANIZATIONS ARE TYPICALLY MADE UP OF INDUSTRY MEMBERS, ACADEMICS AND OTHERS, RIGHT?

A. YES, I THINK TYPICALLY.

Q. AND THEY COME TOGETHER AND THEY PROMULGATE PROTOCOLS THAT MANUFACTURERS AGREE TO FOLLOW IN MANUFACTURING THEIR PRODUCTS, RIGHT?

A. I THINK THAT'S ULTIMATELY WHAT HAPPENS. I THINK EVEN FOR STANDARD PROTOCOLS LIKE TCP, YOU CAN HAVE A COMPANY THAT CHOOSES NOT TO FOLLOW THE STANDARD.

Q. BUT GENERALLY SPEAKING, THE MANUFACTURERS FOLLOW THE STANDARD AND THEY PUBLISH THAT IN THEIR SPECIFICATIONS, RIGHT?

A. NO, THAT'S NOT QUITE RIGHT.

Q. NOW YOU SAID THAT THE FOUNDATION OF NETWORKING IS THE

04:53:05 1 ABILITY OF TWO OR MORE DEVICES TO COMMUNICATE OVER A NETWORK,  
04:53:09 2 RIGHT?

04:53:09 3 A. YES.

04:53:10 4 Q. AND FOR THAT TO HAPPEN THERE HAS TO BE SOME MUTUALLY  
04:53:16 5 AGREED UPON MEANS FOR COMMUNICATION SO THAT ALL THE DEVICES CAN  
04:53:18 6 UNDERSTAND EACH OTHER, RIGHT?

04:53:20 7 A. THAT'S CORRECT. THOSE PROTOCOLS AT THE DIFFERENT LAYERS  
04:53:25 8 FOR COMMUNICATION ALL HAVE TO BE CONSISTENT, USUALLY THE BEST  
04:53:30 9 WAY TO DO THAT IS THROUGH A STANDARD.

04:53:32 10 Q. AND IN NETWORKING THERE ARE 30 OR 40 DIFFERENT  
04:53:35 11 MANUFACTURERS, RIGHT?

04:53:36 12 A. I THINK THERE'S MANY, MANY MORE THAN THAT.

04:53:39 13 Q. FAIR ENOUGH.

04:53:40 14 A. THERE COULD BE HUNDREDS.

04:53:41 15 Q. OKAY. CERTAINLY CISCO IS ONE?

04:53:44 16 A. YES.

04:53:44 17 Q. DELL IS ONE?

04:53:46 18 A. YES.

04:53:47 19 Q. ARISTA IS ONE?

04:53:49 20 A. YES.

04:53:49 21 Q. JUNIPER IS ONE?

04:53:51 22 A. YES.

04:53:51 23 Q. BROCADE IS ONE?

04:53:53 24 A. YES.

04:53:54 25 Q. AND THERE ARE MANY, MANY OTHERS?

04:53:56 1 A. YES, MANY OTHERS.

04:53:57 2 Q. AND THERE ARE MANY FOLLOWING THE VARIOUS INDUSTRY STANDARD

04:54:01 3 PROTOCOLS THAT ARE PROMULGATED BY IEEE AND IETF, RIGHT?

04:54:06 4 A. YES.

04:54:06 5 Q. INCLUDING ARISTA AND CISCO AND MANY OTHERS?

04:54:10 6 A. THAT'S CORRECT. WE HEARD EXAMPLES OF LIKE BGP, THAT'S A

04:54:14 7 STANDARD IN THE IETF. CISCO AND ARISTA AND OTHERS WILL FOLLOW

04:54:19 8 THAT STANDARD AS PUBLISHED BY THE IETF.

04:54:22 9 Q. AND YOU TEACH THESE PROTOCOLS TO YOUR STUDENTS?

04:54:26 10 A. YES, SIR I DO.

04:54:27 11 Q. I THINK YOU SAID EARLIER THAT YOU PUT UP A BOARD WITH ALL

04:54:30 12 SORTS OF ABBREVIATIONS AND ACRONYMS AND YOU TELL YOUR STUDENTS

04:54:34 13 BY THE END OF THE CLASS YOU WILL KNOW ALL OF THOSE, RIGHT?

04:54:37 14 A. YES, SIR, THAT'S WHAT I TESTIFIED TO.

04:54:39 15 Q. AND THOSE ACRONYMS AND ABBREVIATIONS, MANY OF THEM COME

04:54:43 16 RIGHT FROM THESE INDUSTRY STANDARDS AND PROTOCOLS, RIGHT?

04:54:46 17 A. SOME CERTAINLY DO. I DON'T KNOW IF IT'S A KIND OF CAUSE

04:54:49 18 AND EFFECT, WHETHER THOSE ACRONYMS EXIST BEFORE THE STANDARD OR

04:54:53 19 VICE VERSA.

04:54:54 20 Q. AND THE ONES THAT DON'T, THEY'RE COMMON IN THE NETWORKING

04:54:59 21 FIELD GENERALLY, RIGHT?

04:55:00 22 A. ESPECIALLY FOR AN UNDERGRADUATE CLASS. I'M NOT GOING TO

04:55:03 23 TEACH THEM THINGS THAT I CAN'T GET THROUGH IN TEN WEEKS.

04:55:06 24 Q. OKAY. AND WHAT YOU ARE TEACHING THEM IS THAT THERE'S A

04:55:09 25 STANDARD BODY OF ACRONYMS AND ABBREVIATIONS THAT ARE ALSO

04:55:15 1 FAMILIAR TO NETWORK ENGINEERS, RIGHT?

04:55:17 2 A. NO. THAT'S VERY WRONG. THERE'S NOT A STANDARD BODY OF  
04:55:21 3 ACRONYMS. THERE MIGHT BE STANDARD PROTOCOLS BUT THERE ISN'T  
04:55:25 4 SOME STANDARD SET OF PROTOCOLS THAT'S REQUIRED.

04:55:31 5 Q. MAYBE YOU MISUNDERSTOOD OR MAYBE I MISSPOKE, DR. ALMEROTH.

04:55:35 6 BUT WHAT I MEANT TO SAY WAS THAT THERE ARE ACRONYMS AND  
04:55:38 7 ABBREVIATIONS AND TERMS THAT ARE COMMON AND COMMONLY UNDERSTOOD  
04:55:45 8 BY FOLKS IN NETWORKING, THAT'S WHAT YOU ARE TEACHING IN CLASS?

04:55:50 9 A. THAT'S CLOSE.

04:55:53 10 Q. AND IN FACT, MANY OF THE TERMS IN CISCO'S CLI COMMANDS  
04:55:58 11 WERE TAKEN DIRECTLY FROM VARIOUS NETWORKING INDUSTRY PROTOCOLS,  
04:56:03 12 RIGHT?

04:56:04 13 A. I THINK SO, I THINK THAT'S A CHOICE THAT THE -- THAT THE  
04:56:09 14 AUTHORS MADE, YES.

04:56:10 15 Q. AS A MATTER OF FACT, THE VAST MAJORITY OF THE TERMS IN  
04:56:16 16 THESE 506 COMMANDS WE ARE TALKING ABOUT COME FROM INDUSTRY  
04:56:22 17 STANDARD PROTOCOLS WHERE THEY'RE USED IN A DEFINED WAY, RIGHT?

04:56:30 18 A. NO, I DON'T THINK I WOULD AGREE WITH THAT.

04:56:32 19 Q. NOW WE LOOKED A LITTLE BIT EARLIER IN THE WEEK AT THE IP  
04:56:42 20 PROTOCOL. AND YOU WERE HERE WHEN MR. LOUGHEED TESTIFIED ABOUT  
04:56:45 21 THAT?

04:56:45 22 A. YES, SIR.

04:56:46 23 Q. THAT'S THE INTERNET PROTOCOL, RIGHT?

04:56:50 24 A. YES.

04:56:50 25 Q. COMMONLY KNOWN AS IT IS IP PROTOCOL?

04:56:53 1 A. YES.

04:56:53 2 Q. AND YOU'VE USED THE TERM IP TO REPRESENT THAT PROTOCOL?

04:56:57 3 A. YES.

04:56:58 4 Q. STUDENTS USE IT?

04:56:58 5 A. YES.

04:56:59 6 Q. INDUSTRY NETWORK FOLKS USE IT?

04:57:01 7 A. YES.

04:57:01 8 Q. AND SOMETHING LIKE 148 OF THE COMMANDS THAT ARE AT ISSUE

04:57:04 9 IN THIS LAWSUIT, THEY ALSO USE IP?

04:57:07 10 A. I BELIEVE THAT'S CORRECT.

04:57:08 11 Q. AND WHEN THEY USE IP THEY ARE REFERRING TO THE INTERNET

04:57:13 12 PROTOCOL, RIGHT?

04:57:13 13 A. I BELIEVE THAT THEY ARE AND THAT WAS A DESIGN CHOICE THAT

04:57:18 14 THE AUTHORS MADE.

04:57:19 15 Q. AND THAT PROTOCOL WAS STANDARDIZED IN 1981 BEFORE CISCO

04:57:25 16 EVEN EXISTED, RIGHT?

04:57:27 17 A. THE FIRST VERSION OF THAT, YES.

04:57:29 18 Q. THE FIRST VERSION OF IP PROTOCOL WAS STANDARDIZED BY THE

04:57:35 19 IETF BACK IN 1981, RIGHT?

04:57:37 20 A. RFC791.

04:57:43 21 Q. AND THAT'S LONG BEFORE MR. LOUGHEED GOT TO CISCO?

04:57:45 22 A. I BELIEVE THAT'S CORRECT.

04:57:46 23 Q. LONG BEFORE THERE WAS ANY COMMAND AT CISCO IN EXISTENCE AT

04:57:50 24 ALL?

04:57:50 25 A. THAT WOULD STAND TO REASON.

04:57:52 1 Q. AND THERE ARE SUBSEQUENT VERSIONS OF THE INTERNET PROTOCOL  
04:57:59 2 AS WELL?

04:57:59 3 A. YES.

04:58:00 4 Q. IPV6 IS THE VERSION 6 OF THE SAME PROTOCOL?

04:58:07 5 A. IT IS. THE ONE THAT WAS STANDARDIZED IN 1981 IS TYPICALLY  
04:58:12 6 CALLED VERSION FOUR.

04:58:13 7 Q. THAT'S RIGHT. THE ORIGINAL ONE WE HAVE BEEN TALKING  
04:58:16 8 ABOUT, THAT'S VERSION FOUR. VERSION 6 WAS STANDARDIZED A FEW  
04:58:21 9 YEARS LATER, CORRECT?

04:58:22 10 A. YES, SIR.

04:58:22 11 Q. AND THAT'S IN TRIAL EXHIBIT 5040, IF YOU WOULDN'T MIND  
04:58:31 12 TAKING A LOOK AT YOUR BINDERS THERE THAT WE'VE GOT THEM LABELED  
04:58:36 13 5040. AND THE ARE YOU GENERALLY FAMILIAR WITH THE VERSION 6  
04:58:44 14 PROTOCOLS?

04:58:45 15 A. YES, I AM.

04:58:46 16 MR. VAN NEST: YOUR HONOR, I WOULD MOVE 5040 INTO  
04:58:50 17 EVIDENCE.

04:58:50 18 THE COURT: ANY OBJECTION.

04:58:51 19 MR. NELSON: I DON'T HAVE ANY OBJECTION.

04:58:52 20 THE COURT: IT WILL BE ADMITTED.

04:59:00 21 (DEFENDANT'S EXHIBIT 5040 WAS ADMITTED INTO EVIDENCE.)

04:59:00 22 BY MR. VAN NEST:

04:59:02 23 Q. COULD WE HIGHLIGHT THE TITLE, INTERNET PROTOCOL VERSION 6.  
04:59:06 24 IPV6, THAT'S THE ACRONYM OR ABBREVIATION THAT'S COMMONLY  
04:59:09 25 USED TO DESCRIBE IP VERSION 6, RIGHT?



04:59:14 1 A. IT'S ONE OF THEM.

04:59:15 2 Q. OKAY. AND THERE ARE A NUMBER OF COMMANDS AT ISSUE IN THIS

04:59:21 3 LAWSUIT THAT USE IPV6, RIGHT?

04:59:24 4 A. YES.

04:59:25 5 Q. NOW THESE PROTOCOLS ALSO HAVE DEFINED TERMS WITHIN THEM,

04:59:32 6 RIGHT?

04:59:36 7 A. COULD YOU RESTATE -- I'M NOT SURE I UNDERSTAND WHAT YOU

04:59:39 8 ARE ASKING.

04:59:39 9 Q. WELL, THIS EXHIBIT -- THIS IS A PROTOCOL WE ARE LOOKING AT

04:59:43 10 HERE THAT'S SEVERAL PAGES LONG?

04:59:44 11 A. YES.

04:59:45 12 Q. IT DESCRIBES VERSION 6 OF THE INTERNET PROTOCOL?

04:59:50 13 A. YES.

04:59:50 14 Q. IT PROVIDES THE STANDARDS BY WHICH THE MANUFACTURERS THAT

04:59:54 15 WANT TO SUPPORT THE PROTOCOL CAN DO SO, RIGHT?

04:59:58 16 A. NOT TECHNICALLY, THAT'S CORRECT.

05:00:04 17 Q. WELL, WE ARE ALL A LITTLE NONTECHNICAL, DR. ALMEROOTH, NOT

05:00:08 18 YOU, SIR, BUT --

05:00:10 19 NOW, THERE ARE DEFINED TERMS IN IPV6 TOO, RIGHT?

05:00:13 20 A. AGAIN, I'M NOT SURE WHAT YOU MEAN BY DEFINED TERMS.

05:00:16 21 Q. WELL, LET'S PUT IT UP ON THE SCREEN. COULD WE HAVE FROM

05:00:20 22 SECTION 2, PLEASE.

05:00:23 23 TERMINOLOGY. THIS IS PART OF THE SAME PROTOCOL -- I HAVE

05:00:28 24 IT ON THE SCREEN, DR. ALMEROOTH, IT'S A LITTLE EASIER TO LOOK

05:00:31 25 AT, I THINK, THAN --

05:00:32 1 A. I'VE GOT IT IN BOTH PLACES.

05:00:35 2 Q. OKAY. TERMINOLOGY, PARAGRAPH 2, DEFINES NODE, ROUTER,  
05:00:43 3 HOST -- COULD WE HIGHLIGHT THESE. RIGHT?

05:00:53 4 A. IT DOES. AND THE WAY THESE RFC'S WORK YOU CAN SEE THE  
05:00:58 5 NOTES BELOW, IT PROVIDES KIND OF A WORKING DEFINITION, IT'S NOT  
05:01:03 6 WHERE THEY ARE TRYING TO COME UP WITH THE AUTHORITATIVE  
05:01:06 7 DEFINITION OF THIS TERM.

05:01:07 8 Q. BUT THEY ARE DEFINED AND THERE'S A DESCRIPTION IN THE  
05:01:11 9 PROTOCOL ITSELF OF WHAT THE TERM MEANS WITHIN THE PROTOCOL,  
05:01:14 10 RIGHT?

05:01:14 11 A. OR AS THE AUTHORS INTENDED TO PROVIDE SOME CLARITY FOR  
05:01:20 12 SOMEBODY READING THIS DOCUMENT.

05:01:21 13 Q. NOW, MANY OF THE TERMS THAT ARE USED IN THE COMMANDS AT  
05:01:25 14 ISSUE IN THIS LAWSUIT ARE DEFINED TERMS LIKE THESE FROM THE  
05:01:30 15 WRITTEN PROTOCOLS, RIGHT?

05:01:31 16 A. IN SOME CASES, YES. IN OTHER CASES, NO. YOU'VE POINTED  
05:01:38 17 TO AN RFC THAT HAS A TERMINOLOGY SECTION. I DON'T KNOW THAT  
05:01:43 18 MANY OF THEM ACTUALLY DO --

05:01:46 19 Q. I'M GOING TO BE REVIEWING THAT, DR. ALMEROOTH, WE ARE GOING  
05:01:49 20 TO BE REVIEWING THAT SHORTLY. YOU'VE ANSWERED MY QUESTION,  
05:01:52 21 WHICH IS THAT MANY OF THESE DO?

05:01:53 22 A. SORRY, I WASN'T DONE WITH MY ANSWER.

05:01:56 23 Q. OH, I'M SORRY, ARE YOU DONE?

05:01:58 24 A. NO, ACTUALLY, I WASN'T.

05:02:00 25 I WAS SAYING THAT SOME RFC'S LIKE THIS HAVE TERMINOLOGY

05:02:04 1 AND GLOSSARY SECTIONS. OTHERS DON'T. IN SOME CASES THERE ARE  
05:02:08 2 CHOICES IN COMMON WORDS THAT ARE USED, SOME APPEAR IN THE  
05:02:12 3 STANDARDS AND SOME DON'T. BUT ULTIMATELY IT'S A DESIGN CHOICE.

05:02:18 4 MR. VAN NEST: COULD WE PUT SLIDE 2 OF THE  
05:02:20 5 DEMONSTRATIVES UP ON THE SCREEN, PLEASE.

05:02:22 6 Q. THESE ARE ALL COMMANDS THAT ARE AT ISSUE IN THIS LAWSUIT,  
05:02:25 7 RIGHT?

05:02:26 8 A. I BELIEVE THAT'S CORRECT.

05:02:27 9 Q. AND IPV6, WE ESTABLISHED THAT, THAT IS THE NAME OF VERSION  
05:02:33 10 6 OF THE INTERNET PROTOCOL, THAT'S WHAT, THAT'S THE  
05:02:37 11 ABBREVIATION PEOPLE COMMONLY USE?

05:02:39 12 A. NO, I THINK THERE'S OTHER ABBREVIATIONS.

05:02:43 13 Q. WELL, THAT'S THE ONE THAT'S IN THE TITLE OF THE PROTOCOL,  
05:02:46 14 RIGHT?

05:02:46 15 A. THAT IS, I'M JUST SAYING THAT IT'S NOT NECESSARILY THE  
05:02:50 16 ONLY ONE THAT PEOPLE USE.

05:02:51 17 Q. BUT IT'S THE ONE IN THE TITLE?

05:02:52 18 A. YEAH, I AGREED WITH YOU.

05:02:53 19 Q. OKAY. AND IPV6 HOST -- COULD WE GO SIDE-BY-SIDE WITH OUR  
05:02:58 20 TERMINOLOGY SECTION?

05:02:59 21 THE COURT: AND WE NEED TO WRAP UP, I JUST WANT TO  
05:03:01 22 GIVE YOU A GOOD PLACE TO STOP.

05:03:03 23 MR. VAN NEST: OKAY. IF I COULD JUST HAVE ONE MORE  
05:03:05 24 MINUTE, YOUR HONOR, I WILL --

05:03:06 25 THE COURT: OF COURSE.

05:03:07 1 BY MR. VAN NEST:

05:03:08 2 Q. SO ON THE LEFT WE ARE SHOWING COMMANDS THAT ARE AT ISSUE  
05:03:11 3 IN THE LAWSUIT. SO HOST IS ONE OF THE DEFINED TERMS IN THE  
05:03:16 4 IPV6 PROTOCOL, RIGHT?

05:03:18 5 A. CLOSE. AGAIN, I DISAGREE WITH YOUR CHARACTERIZATION OF  
05:03:23 6 HOW THEY'RE DEFINED AND PRESENTED IN THIS RFC.

05:03:29 7 Q. WELL AT LEAST IT'S SET FORTH AS A TERM THAT THAT HAS SOME  
05:03:33 8 SORT OF A DEFINITION, RIGHT?

05:03:34 9 A. IT'S LISTED IN THE TERMINOLOGY SECTION BEING I GENERALLY  
05:03:37 10 AGREE WITH YOU.

05:03:38 11 Q. AND NEIGHBOR THAT'S LISTED IN THE TERMINOLOGY SECTION TOO?

05:03:40 12 A. IT IS.

05:03:40 13 Q. AND ADDRESS?

05:03:41 14 A. WELL, HOLD ON. I'M SORRY.

05:03:42 15 I MEAN, THERE IT'S NEIGHBORS, RIGHT, AND THERE'S A  
05:03:45 16 DIFFERENCE OF AN "S." THAT WOULD MAKE A SIGNIFICANT DIFFERENCE  
05:03:49 17 TO A PARSER.

05:03:50 18 Q. AND WELL, YOU WILL ACTUALLY SEE NEIGHBORS USED FURTHER  
05:03:56 19 DOWN IN THE COMMANDS THERE, SHOW IPV6 NEIGHBORS, SO THAT ONE IS  
05:04:00 20 USED THERE, RIGHT?

05:04:00 21 A. IT IS USED THERE, BUT NOT NEIGHBOR. SO AT LEAST THAT ONE  
05:04:04 22 IS NOT IN THE TERMINOLOGY SECTION.

05:04:08 23 Q. AND INTERFACE THAT'S A TERM DEFINED IN THE TERMINOLOGY  
05:04:11 24 SECTION OF THIS PROTOCOL AS WELL?

05:04:13 25 A. IT IS LISTED IN THE TERMINOLOGY SECTION.

05:04:15 1 Q. AND IT'S CERTAINLY TRUE FOR MANY, MANY, MANY OF THE  
05:04:19 2 COMMANDS AT ISSUE THAT THEY ARE USING TERMS THAT CAN BE FOUND,  
05:04:26 3 USED DIRECTLY IN THE PROTOCOL TO WHICH THEY RELATE, RIGHT?

05:04:30 4 A. I DISAGREE. I DON'T THINK IT'S MANY, MANY. I THINK THERE  
05:04:33 5 ARE CERTAINLY QUITE A FEW, AND I THINK THE FACT THAT YOU HAVE  
05:04:36 6 WORDS FROM A STANDARD LIKE THIS THAT ALSO WOULD APPEAR IN THE  
05:04:41 7 COMMANDS THEMSELVES IS NOT INDICATIVE THAT THERE'S NOT A  
05:04:44 8 CREATIVE PROCESS INVOLVED.

05:04:46 9 THERE'S OTHER WORDS IN THESE DOCUMENTS THAT THEY COULD  
05:04:48 10 POTENTIALLY HAVE USED.

05:04:49 11 Q. MY LAST QUESTION, DR. ALMEROOTH, IS I ASSUME THAT WHEN THE  
05:04:54 12 COMMAND IS USING IPV6, IT IS REFERRING A NETWORK ENGINEER TO  
05:05:01 13 SOMETHING RELATED TO IPV6, RIGHT?

05:05:03 14 A. THAT WOULD BE A REASONABLE ASSUMPTION TO MAKE, ESPECIALLY  
05:05:06 15 ASSUMING THAT THE PERSON WHO CREATED THOSE COMMANDS USED SOME  
05:05:15 16 DECISIONMAKING PROCESS.

05:05:17 17 MR. VAN NEST: THAT'S A GOOD PLACE TO BREAK,  
05:05:19 18 YOUR HONOR.

05:05:19 19 THE COURT: ALL RIGHT. WE ARE GOING TO BREAK FOR THE  
05:05:23 20 DAY, SORRY WE ARE A COUPLE OF MINUTES LATE.

05:05:25 21 TOMORROW WE HAVE A LONG DAY. WE WILL START AT 9:00 AND GO  
05:05:28 22 TO 5:00, AND JUST KEEP MOVING ALONG.

05:05:30 23 WE ARE RIGHT ON SCHEDULE, LADIES AND GENTLEMEN. SO THANK  
05:05:33 24 YOU FOR YOUR ATTENTION TODAY. I WILL HAVE YOU LEAVE YOUR  
05:05:35 25 NOTEBOOKS AND BADGES RIGHT THERE.

05:05:37 1 LET ME REMIND YOU, YOU ARE NOT TO FORM OR EXPRESS ANY  
05:05:40 2 OPINIONS IN THE CASE OR TALK TO ANYONE ABOUT ANYTHING IN REGARD  
05:05:42 3 TO THE CASE.

05:05:43 4 HAVE A GOOD EVENING. I WILL SEE YOU IN THE MORNING.  
05:05:47 5 (JURY OUT AT 5:05 P.M.)

05:06:10 6 THE COURT: ALL RIGHT. PLEASE BE SEATED.  
05:06:20 7 WE ARE BACK ON THE RECORD OUTSIDE THE PRESENCE OF THE  
05:06:23 8 JURY.

05:06:24 9 LET'S TAKE UP SOME HOUSEKEEPING THINGS.

05:06:26 10 MR. NELSON, I HAD A QUESTION, AND I'M SURE I MUST HAVE  
05:06:31 11 MISSED SOMETHING HERE.

05:06:32 12 MR. NELSON: NOT IF IT INVOLVED ME, IT COULD HAVE  
05:06:35 13 BEEN ME, YOUR HONOR.

05:06:35 14 THE COURT: YOU INTRODUCED INTO EVIDENCE EXHIBIT 4803  
05:06:38 15 WHICH IS AN INDEX THROUGH MR. LANG.

05:06:42 16 MR. NELSON: CORRECT, WE DID.

05:06:43 17 THE COURT: ALL RIGHT.

05:06:44 18 AND I NOTED ON THE INDEX THAT IT HAD IN THE FAR RIGHT  
05:06:49 19 COLUMN, A LIST, WHAT APPEARED TO BE EXHIBIT NUMBERS. YOU  
05:06:53 20 DIDN'T INTRODUCE ALL OF THE CORRESPONDING EXHIBITS.

05:06:56 21 MR. PAK: YOUR HONOR, ACTUALLY, EXHIBIT 4803 IS A  
05:07:00 22 COMPILATION OF ALL OF THOSE EXHIBITS IN ONE FILING WITH AN  
05:07:02 23 INDEX.

05:07:03 24 THE COURT: SO IT INCLUDES ALL OF THOSE EXHIBITS.

05:07:06 25 MR. NELSON: YES.

05:07:06 1 THE COURT: SO THAT WAS NOT CLEAR TO ME, AND I  
05:07:08 2 WANTED -- I PRESUME YOU HAVE ALL TALKED ABOUT THIS, BUT JUST  
05:07:12 3 SO -- I'M GOING -- AND THERE WAS A THUMB DRIVE, SO THAT WAS  
05:07:16 4 VERY SCARY TO SEE. BUT THAT WOULD -- YOU ONLY MOVED INTO  
05:07:20 5 EVIDENCE WHAT WAS MARKED AS AN EXHIBIT. AND YOU DIDN'T COMMENT  
05:07:23 6 THAT THAT INCLUDED ALL OF THE UNDERLYING DOCUMENTATION.

05:07:26 7 I WAS UNCLEAR, EXCEPT I SAW THE THUMB DRIVE AND THOUGHT  
05:07:30 8 OH, THERE'S A LOT MORE HERE THAN WHAT I'M SEEING.

05:07:35 9 MR. NELSON: WE COULD MAKE THAT CLEAR IF YOU LIKE, WE  
05:07:37 10 COULD MAKE THAT CLEAR TOMORROW.

05:07:38 11 THE COURT: THAT WOULD BE FINE.

05:07:39 12 AND MR. VAN NEST PROBABLY UNDERSTOOD THIS COMPLETELY, BUT  
05:07:41 13 I DIDN'T AND THE RECORD DOESN'T REFLECT THAT.

05:07:48 14 MR. VAN NEST: WHAT I UNDERSTOOD, WAS THAT WE HAD  
05:07:52 15 SOME ARRANGEMENT TO GET THE COPYRIGHT REGISTRATIONS IN, AND I  
05:07:55 16 THOUGHT THAT'S WHAT WE WERE DOING WITH MR. LANG.

05:07:58 17 THE COURT: YEAH.

05:07:58 18 MR. NELSON: CORRECT.

05:08:00 19 THE COURT: I THINK THAT'S WHAT IT IS AND IT'S THE  
05:08:01 20 UNDERLYING -- HE TALKED ABOUT THERE OTHER SCADS OF PAPER THAT  
05:08:07 21 SUPPORTED THE REGISTRATIONS, AND I GATHER THAT'S WHAT THAT IS.

05:08:11 22 MR. NELSON: CORRECT.

05:08:12 23 IT WOULD BE THE -- THEY ARE ALL TRIAL EXHIBITS AND IT  
05:08:15 24 WOULD BE THEIR NUMBER THAT WAS REFERRED TO IN THAT SUMMARY AND  
05:08:18 25 THAT'S ALL WHAT'S ON THAT THUMB DRIVE.

05:08:20 1 THE COURT: OKAY.

05:08:21 2 MR. VAN NEST: WE WILL REVIEW THE THUMB DRIVE  
05:08:23 3 TONIGHT. I WASN'T AWARE IT WAS GOING TO GO IN, BUT WE DID  
05:08:27 4 DISCUSS PUTTING THE REGISTRATIONS IN.

05:08:29 5 THE COURT: SURE.

05:08:30 6 MR. NELSON: YEAH. WE WORKED ALL THIS OUT.

05:08:32 7 THE COURT: I HAD THE COVER SHEET, THE OFFICIAL  
05:08:34 8 GOVERNMENT DOCUMENT AND THEN I HAD THE INDEX THAT PURPORTED, I  
05:08:40 9 BELIEVE, TO SUMMARIZE THE UNDERLYING DOCUMENTATION SUBMITTED TO  
05:08:43 10 THE COPYRIGHT OFFICE. BUT YOU ONLY ADMITTED THE INDEX AS IF IT  
05:08:46 11 WAS A SEPARATE DOCUMENT.

05:08:47 12 AND THEN THERE WAS A THUMB DRIVE AND IT WAS UNCLEAR TO ME  
05:08:51 13 WHAT YOU WERE SUBMITTING IN EVIDENCE.

05:08:52 14 MR. PAK: YOUR HONOR, JUST TO BE CLEAR, 4803 AS AN  
05:08:55 15 EXHIBIT IS THE INDEX THAT WE HAVE BEEN DISCUSSING PLUS ALL OF  
05:09:00 16 THE REGISTRATION MATERIALS IN ONE.

05:09:02 17 THE COURT: HUNDREDS OF THOUSANDS OF PAGES.

05:09:04 18 MR. PAK: YES. BECAUSE IT WOULD LITERALLY BE TO THE  
05:09:09 19 WALL.

05:09:09 20 THE COURT: SO THAT'S WHY I WAS CONFUSED BECAUSE IT  
05:09:12 21 REFERENCED SEPARATE EXHIBIT NUMBERS.

05:09:13 22 MR. PAK: THEN SEPARATELY WE ALSO HAD IN OUR TRIAL  
05:09:17 23 EXHIBIT LIST EACH OF THESE REGISTERED --

05:09:17 24 THE COURT: YOU DIDN'T INTRODUCE THEM?

05:09:17 25 MR. PAK: NO, WE DIDN'T INTRODUCE THEM BECAUSE THE



05:09:20 1 MOST EFFICIENT MECHANISM TO GET THEM IN --

05:09:20 2 THE COURT: YOU HAVE NOW COMBINED THEM AS A SINGLE  
05:09:24 3 EXHIBIT INCLUDING MANY THINGS.

05:09:25 4 MR. PAK: A SINGLE EXHIBIT. AND THAT'S WHAT WE  
05:09:26 5 DISCUSSED WITH ARISTA.

05:09:28 6 THE COURT: THAT'S WHAT I COULDN'T TELL BECAUSE  
05:09:33 7 OBVIOUSLY I WAS NOT ABOUT TO OPEN UP A THUMB DRIVE. EVER.

05:09:39 8 SO THANK YOU. I JUST DIDN'T UNDERSTAND THAT. AND I  
05:09:42 9 PRESUME THAT THE WITNESS BINDER HAD IT BECAUSE MR. LANG COULD  
05:09:47 10 TESTIFY TO IT.

05:09:48 11 I DIDN'T HAVE 5345 IN MY BINDER, BUT HE SEEMED TO FIND IT,  
05:09:52 12 AND IT DOESN'T SEEM TO BE A PROBLEM, BUT I JUST WANT TO --

05:09:56 13 THE CLERK: I HAVE A COPY FOR YOU.

05:09:59 14 THE COURT: EXCELLENT.

05:09:59 15 AND THEN THE SIDEBAR WE HAD REGARDING THE INTERROGATORY  
05:10:01 16 RESPONSES, YOU WILL WORK OUT WHEN DR. ALMEROOTH WILL BE  
05:10:05 17 PERMITTED TO GIVE THAT TESTIMONY YOU WILL WORK IT OUT WITH  
05:10:08 18 MR. VAN NEST.

05:10:09 19 MR. VAN NEST: RIGHT.

05:10:09 20 MR. NELSON: I CAN DO THAT ON REDIRECT.

05:10:11 21 WE WILL PREPARE. I ASSUME YOU WANT IT TO BE EXCERPTED,  
05:10:17 22 JUST THOSE.

05:10:18 23 THE COURT: I DON'T WANT ANYTHING IN PARTICULAR.

05:10:20 24 THERE WAS AN OBJECTION, IT WASN'T TIMELY DISCLOSED. I  
05:10:23 25 SUSTAINED THAT, BUT I'M ALLOWING YOU, EVEN THOUGH IT WOULD BE

05:10:26 1 BEYOND THE SCOPE OF YOUR REDIRECT TO GIVE MR. VAN NEST THE TIME  
05:10:30 2 HE'S ENTITLED TO, TO BE PREPARED ON THESE SUBMISSIONS. THAT'S  
05:10:33 3 ALL.

05:10:33 4 MR. NELSON: UNDERSTOOD.

05:10:34 5 THE COURT: IT'S NOT FOR ME TO SAY WHAT YOU ARE  
05:10:36 6 SUBMITTING.

05:10:36 7 MR. NELSON: I WAS JUST ASKING FOR GUIDANCE ON,  
05:10:38 8 BECAUSE YOU KNOW, INTERROGATORY RESPONSES, A LOT OF TIMES THERE  
05:10:40 9 WILL BE, ONE DOCUMENT WILL HAVE SEVERAL --

05:10:42 10 THE COURT: SO TYPICALLY, WE DON'T -- YOU ONLY WANT,  
05:10:46 11 WAS IT 9 AND 26?

05:10:48 12 MR. NELSON: CORRECT, AND THEY ARE TWO SEPARATE  
05:10:50 13 DOCUMENTS.

05:10:51 14 THE COURT: AND TWO SEPARATE DOCUMENTS, THAT'S ALL  
05:10:53 15 THE JURY WILL GET. AND YOU WILL NEED TO REDACT IN WHATEVER WAY  
05:10:57 16 WORKS OUT BETWEEN THE PARTIES SO THAT THEY GET THE QUESTION AND  
05:10:59 17 THE ANSWER AND NOT OTHER QUESTIONS AND ANSWERS THAT ARE NOT  
05:11:02 18 PERTINENT.

05:11:02 19 MR. NELSON: AND ELIMINATE THE OBJECTIONS AND STUFF.  
05:11:06 20 RIGHT.

05:11:06 21 THE COURT: WELL I ALWAYS LOVE TO ELIMINATE  
05:11:09 22 OBJECTIONS. OKAY. THOSE WERE MY HOUSEKEEPING MATTERS.  
05:11:13 23 ANYTHING ELSE?

05:11:14 24 MR. VAN NEST: I WANT TO MAKE SURE, I BELIEVE IT'S  
05:11:15 25 THE RULE IN THIS COURT AND ALL OF OUR DISTRICT THAT THE WITNESS

05:11:19 1 SHOULD BE INSTRUCTED THAT HE'S NOT TO SPEAK WITH COUNSEL OVER  
05:11:21 2 THE BREAK THIS EVENING NOW THAT HE'S ON CROSS EXAM.

05:11:24 3 THE COURT: WELL, THAT'S TYPICALLY CORRECT.

05:11:26 4 MR. NELSON: I'VE ALWAYS ASSUMED THAT WAS THE CASE.

05:11:28 5 I ASSUMED MR. VAN NEST DID THAT AND FIGURED HE KNEW WITH  
05:11:32 6 WITNESSES. I KNOW THAT, YOUR HONOR, AND WE WILL ADHERE.

05:11:34 7 THE COURT: THANK YOU. I APPRECIATE THAT.

05:11:36 8 MR. VAN NEST: I DON'T THINK WE HAVE ANYTHING ELSE  
05:11:38 9 THIS EVENING.

05:11:38 10 THE COURT: OKAY. AND THEN JUST FOR SCHEDULING, NEXT  
05:11:42 11 WEEK, WE WILL NOT BE ON THE RECORD ON THURSDAY, THAT'S MY  
05:11:49 12 NORMAL MOTION DAY. BUT THAT IS AN OPPORTUNITY FOR US TO  
05:11:52 13 REVISIT JURY INSTRUCTIONS.

05:11:54 14 AND I'M STILL ANTICIPATING CLOSING ARGUMENTS ON THAT  
05:11:58 15 FOLLOWING TUESDAY. BUT WE -- YOU NEED TIME FOR PRODUCTION AND  
05:12:02 16 I DON'T WANT TO BE JAMMED WITH YOU DOING IT OVERNIGHT.

05:12:06 17 MR. VAN NEST: SO WE APPRECIATE THAT. SO WE WON'T BE  
05:12:08 18 WITH THE JURY THURSDAY.

05:12:10 19 THE COURT: WE WILL NOT.

05:12:11 20 MR. VAN NEST: AND WE PROBABLY WON'T BE WITH  
05:12:13 21 YOUR HONOR THURSDAY MORNING, MAYBE THURSDAY AFTERNOON.

05:12:15 22 THE COURT: NO, I HAVE A TIGHT SCHEDULE  
05:12:17 23 UNFORTUNATELY, I'M MOVING MY MORNING CALENDAR SO THAT I CAN SEE  
05:12:21 24 YOU AT 10:00.

05:12:22 25 MR. VAN NEST: ON THURSDAY.

05:12:22 1 THE COURT: ON THURSDAY THE 8TH. AND MY MORNING  
05:12:24 2 CALENDAR IS GOING TO HAVE TO START AT 8:30.

05:12:27 3 MR. VAN NEST: SO WE WILL PLAN TO BE HERE AT 10:00  
05:12:29 4 ON THURSDAY AND SPEND AS MUCH TIME AS WE NEED.

05:12:32 5 THE COURT: THAT'S RIGHT. WELL I ONLY HAVE UNTIL  
05:12:34 6 2:00.

05:12:35 7 MR. VAN NEST: FINE.

05:12:35 8 THE COURT: AND I HAVE ANOTHER OBLIGATION. SO --

05:12:38 9 MR. VAN NEST: FAIR ENOUGH, THANK YOU.

05:12:40 10 THE COURT: I THINK FOUR HOURS IS MORE THAN ENOUGH  
05:12:42 11 TIME.

05:12:42 12 MR. PAK: YES, I THINK SO, YOUR HONOR.

05:12:44 13 YOUR HONOR, I KNOW YOU HAD ONE QUESTION ABOUT SECTION, THE  
05:12:47 14 VERSION 5.2 OF IOS XR, DR. ALMEROOTH TALKED ABOUT THAT WITH  
05:12:53 15 RESPECT TO THE COMMAND DESCRIPTIONS, I JUST WANTED TO READ INTO  
05:12:56 16 THE RECORD THE PARAGRAPH FROM HIS EXPERT REPORT WHERE HE TALKS  
05:13:00 17 ABOUT THAT, THAT'S PARAGRAPH 97.

05:13:04 18 MR. VAN NEST: THE REBUTTAL?

05:13:06 19 MR. PAK: WHAT WAS THAT -- OH, SORRY, THIS IS I  
05:13:08 20 BELIEVE OPENING.

05:13:09 21 THE COURT: HIS OPENING REPORT.

05:13:11 22 MR. PAK: YES, YOUR HONOR.

05:13:11 23 THE COURT: OKAY.

05:13:12 24 MR. PAK: I UNDERSTAND THAT CISCO OWNS COPYRIGHTS IN  
05:13:14 25 THE PROGRAMS, DOCUMENTATION AND OTHER MATERIALS THAT RELATE TO

05:13:17 1 ITS IOS, IOS XR, IOS XE AND NX OPERATING SYSTEMS. CISCO IOS  
05:13:27 2 COPYRIGHTED WORKS OR CISCO COPYRIGHTED WORKS.

05:13:30 3 THE CISCO IOS COPYRIGHTED WORKS INCLUDE COMPUTER PROGRAMS,  
05:13:37 4 SCREEN DISPLAYS/COMMAND-LINE INTERFACES AND RELATED DOCUMENTS  
05:13:41 5 THAT DESCRIBE AND DEFINE IOS AND THE IOS CLI, INCLUDING  
05:13:47 6 COMMANDS, MODES, PROMPTS, HIERARCHIES, OUTPUTS AND COMMAND  
05:13:52 7 DESCRIPTIONS, BECAUSE THEY'RE THE HELP DESCRIPTIONS.

05:13:55 8 I UNDERSTAND THAT EACH VERSION OF A CISCO OPERATING SYSTEM  
05:13:58 9 BUILDS UPON PREVIOUS VERSIONS AND THAT CISCO SEPARATELY  
05:14:01 10 REGISTERED COPYRIGHT FOR IOS COPYRIGHTED WORKS IN CONNECTION  
05:14:05 11 WITH AT LEAST THE FOLLOWING OPERATING SYSTEM RELEASES.

05:14:07 12 AND THERE'S A TABLE, YOUR HONOR, THAT SHOWS THIS. AND  
05:14:12 13 CISCO IOS XR VERSION 5.2 IS IN THIS TABLE, YOUR HONOR.

05:14:17 14 THE COURT: WE ASSUME IT'S 5.1.4?

05:14:21 15 MR. PAK: THAT'S CORRECT, YOUR HONOR.

05:14:22 16 THE COURT: OKAY. I THINK THAT TAKES CARE OF  
05:14:23 17 EVERYTHING.

05:14:24 18 MR. VAN NEST: I THOUGHT THE OPERATIVE POINT WAS  
05:14:27 19 WHETHER HE HAD DISCLOSED ANY ANALYSIS.

05:14:30 20 THE FACT THAT HE HAD IT, THAT'S NOT -- I THOUGHT THAT'S  
05:14:34 21 WHAT WE WERE DEBATING IS WHERE WAS HE IN HIS REPORT SHOWING  
05:14:38 22 SOME ANALYSIS OF THIS.

05:14:39 23 MR. NELSON: THAT IS --

05:14:41 24 MR. PAK: THIS IS WHAT HE'S DOING HERE.

05:14:43 25 SO YOUR HONOR, 5.1.4 IS THE VERSION THAT HE IDENTIFIED AS

05:14:49 1 WHERE THE SOURCE CODE FILES WERE IDENTIFIED RELATING TO THE  
05:14:54 2 HELP DESCRIPTIONS IN IOS XR.

05:14:56 3 HE ALSO SPECIFICALLY TALKED ABOUT THE FACT THAT EACH  
05:14:58 4 VERSION GOES UPON PRIOR RELEASES, THAT'S BEEN AUTHENTICATED BY  
05:15:02 5 OR CORROBORATED BY VARIOUS FACT WITNESSES. HE LISTED OUT THE  
05:15:07 6 SPECIFIC VERSIONS INCLUDING 2.0 WHICH SUBSUMES 1.4, OPINION  
05:15:20 7 1.1.4.

05:15:22 8 THE COURT: 5.1.

05:15:24 9 MR. PAK: 5.1.4 IS SUBSUMED BY 5.2, DID I GET THAT  
05:15:30 10 RIGHT, DR. ALMEROOTH? OKAY.

05:15:31 11 AND THEREFORE, ALL OF THIS EVIDENCE IS CONSISTENT WITH THE  
05:15:35 12 TRIAL TESTIMONY.

05:15:36 13 THE COURT: AND SO ALTHOUGH 5.1.4 MIGHT HAVE LESS  
05:15:40 14 THAN 5.2. IT, IN NO INSTANCE, HAS MORE.

05:15:45 15 MR. PAK: THAT'S CORRECT, YOUR HONOR.

05:15:45 16 THE COURT: OKAY.

05:15:48 17 OKAY. THAT TAKES CARE OF EVERYTHING TODAY. THANK YOU.

05:15:50 18 WE WILL SEE WHAT WE HAVE GOING ON TOMORROW.

05:15:54 19 (THE EVENING RECESS WAS TAKEN AT 5:15 P.M.)

20

21

22

23

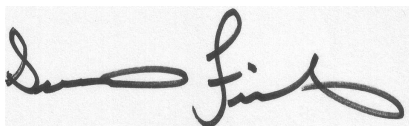
24

25

**CERTIFICATE OF REPORTER**

I, THE UNDERSIGNED OFFICIAL COURT  
REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,  
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

DATED: 12/1/16